Tho. Filgate

# THE PRINCIPLES OF NATURAL LAW.

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# THE PRINCIPLES OF NATURAL LAW.

By *J. J. BURLAMAQUI*,
Counſellor of State, and late Profeſſor of NATURAL and CIVIL LAW at GENEVA.

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Tranſlated into ENGLISH by Mr. NUGENT.

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MDCCLXXX.

TO

# Dr. MEAD.

SIR,

TO intrude in this manner upon your time, ſo uſefully employed in the duties of your profeſſion, would expoſe me in ſome meaſure to blame, were it upon a leſs important occaſion than that of recommending the following work to your generous protection. The dignity of the ſubject, which, handled by other

pens, has been thought worthy of being inſcribed to the moſt illuſtrious perſonages of the laſt and preſent age, will plead, I hope, ſome excuſe for an addreſs, which is deſigned not ſo much to interrupt your occupations, as to avail itſelf of the ſanction of your name in introducing this work to the public. And indeed a nobler ſubject I could not ſelect for the favour of your acceptance, than that which ſo nearly relates to the moral duties of life, and the foundation of human contentment and happineſs; a ſubject moreover illuſtrated by one of the ableſt maſters of the preſent age, whoſe extraordinary ability and ſkill in curing the diſorders of the mind, may be compared very aptly to yours in removing thoſe of the body. One of the principal encouragements I had to this addreſs, is the near relation between the follow-

following work, and thoſe elevated ſentiments with which you have been always inſpired. Such an admirable ſyſtem of moral precepts, ſuch noble maxims of true Chriſtian policy, and ſuch excellent rules for the government of our lives, cannot but be acceptable to a gentleman, who, in the whole tenor of his conduct, has been an illuſtrious example of thoſe rules and maxims which are here moſt judiciouſly eſtabliſhed. A very good opportunity this of entering upon the encomium of thoſe virtues which have ſo eminently diſtinguiſhed you at the head of your profeſſion; but the little value any commendations of mine would have, the apprehenſion I ſhould be under of being ſuſpected of adulation, and the danger I ſhould incur of offending your modeſty, obliges me to wave any attempt of this nature.

However, I cannot help taking notice of that true magnificence with which you have at all times contributed to the advancement of learning, and whereby you have juſtly acquired the title of patron and protector of letters. In fact, the extenſive bleſſings that fortune has beſtowed upon you, have been employed not as inſtruments of private luxury, but as means of promoting thoſe arts, which have received an additional luſtre, ſince they have ſhone ſo conſpicuouſly in your perſon. Your friendſhip and correſpondence have been courted by the greateſt men of the preſent age; and your houſe, like that of Atticus, has been open to the learned of all orders and ranks, who unanimouſly reſpect you, not only as a ſupreme judge of learning and wit, but, moreover, as an *arbiter elegantiarum*, and maſter of finiſhed urbanity.

Your

# DEDICATION.

Your collection of valuable curioſities and books, wherein you have rivalled the magnificence of ſovereigns, is the admiration and talk of all Europe, and will be a laſting monument of your love of literature. The polite reception you have always given to the learned of foreign nations has rendered your name ſo reſpectable abroad, that you are never mentioned but with expreſſions denoting the high idea they entertain of your ſingular munificence. Theſe, Sir, are not particular ſentiments of mine; they are the ſentiments of the public, whoſe voice I utter; they are the ſentiments of your learned friends abroad, which I have been deſired to repeat to you upon a late occaſion, together with their compliments of thanks for the marks they have received of your great and diſintereſted civility. It is with pleaſure I embrace this oppor-

tunity of executing my commiſſion, and of declaring in this public manner the profound reſpect and eſteem with which I have the honour of ſubſcribing myſelf,

SIR,

Your moſt humble and

Obedient Servant,

Gray's Inn,
June 4, 1748.

Thomas Nugent.

# THE TRANSLATOR TO THE READER.

*THE author of the following work, M. J. J. Burlamaqui, was deſcended from one of thoſe noble families of Lucca, which, upon their embracing the Proteſtant religion, were obliged about two centuries ago to take ſhelter in Geneva. His father was counſellor and ſecretary of ſtate; honours which are frequently conferred in that city upon ſuch as acquit themſelves worthily of a profeſſorſhip in the academy,*

*particularly that of law, the fitteſt without doubt to form able judges, magiſtrates, and ſtateſmen. The ſon, upon his return from his travels, was immediately nominated profeſſor of this ſcience, in which poſt he continued a conſiderable number of years, till the republic thought proper to remunerate his long and eminent ſervices, by raiſing him to the ſame dignity as his father. The great reputation he acquired in his profeſſorſhip, was leſs owing to his immenſe erudition, in which he equalled if not excelled all his predeceſſors, than to the quickneſs of his underſtanding, the clearneſs of his ideas, his ſound and judicious views in the ſtudy of juriſprudence, and eſpecially to the ſolidity of his Principles on natural law and civil government. With regard to the occaſion of his publiſhing theſe* Principles, *he obſerves himſelf in his preface, that it was in ſome*

*meaſure to comply with the importunity of his friends, but chiefly to prevent his reputation from being injured by a precipitate impreſſion from any of thoſe imperfect and ſurreptitious copies which had been handed about by his pupils. The public indeed had flattered themſelves a long time with the hopes of ſeeing a complete courſe of the law of nature and nations from this eminent hand; but his occupations and infirmity obliged him to fruſtrate their expectations. However, as a good introduction to this ſcience was extremely wanted, he thought proper, till he could publiſh his larger work, to favour us with the following Principles, being convinced that in this, as in every other branch of learning, the moſt eſſential part is the laying of a proper and ſolid foundation. In fact, we daily obſerve that moſt errors in life proceed rather from wrong principles, than from ill-drawn conſequences.*

*M. Bur.*

*M. Burlamaqui is ſo modeſt as to conſider theſe principles, as calculated only for young people, who are deſirous of being initiated into the ſtudy of natural law; and yet we may venture to affirm it is a performance of general utility, but eſpecially to ſuch as have had the misfortune of neglecting this ſcience in their younger days. It is a performance that muſt certainly be allowed to have the merit of an original undertaking, by our author's aſcending always to the firſt principles, by his illuſtrating and extending them, by his connecting them with each other, and by exhibiting them frequently in a new light. But his ſingular beauty conſiſts in the alliance he ſo carefully points out between ethics and juriſprudence, religion and politics, after the example of Plato and Tully, and the other illuſtrious maſters of antiquity. In effect, theſe ſciences have the ſame baſis, and*

*tend*

*tend to the ſame end; their buſineſs is to unravel the ſyſtem of humanity, or the plan of providence with regard to man; and ſince the unity of this ſyſtem is an unqueſtionable point, ſo ſoon as writers aſcend to the principles, in order to view and contemplate the whole, it is impoſſible but they all ſhould meet.*

*Our author's method has nothing of the ſcholaſtic turn. Inſtead of ſtarting new difficulties, he prevents them by the manner of laying his theſis; inſtead of diſputing, he reconciles. Far from purſuing any idle or too ſubtle ideas, he follows nature ſtep by ſtep, and derives his arguments from ſenſe and experience. His thoughts he unfolds with the greateſt perſpicuity and order; and his ſtyle is pure, clear, and agreeable, ſuch as properly becomes a didactic work. In fine, he has the honour of preſerving the character of a Chriſtian philoſopher, by inculcating*

*culcating the value we ought to ſet upon the light of revelation, a light which ſo advantageouſly aſſiſts the feeble glimmerings of reaſon in the high and important concerns of our civil and religious duties.*

THE

THE

# Author's Advertiſement.

*THIS treatiſe on the* Principles of Natural Law, *is an introduction to a larger work, or to a complete ſyſtem of the law of nature and nations, which ſome time or other I propoſed to publiſh. But having met with ſeveral obſtructions in my attempt, through a variety of occupations, and principally from my indifferent ſtate of health, I had almoſt loſt ſight of my original deſign. Being informed however that ſome manuſcript copies of the papers I had drawn up for my own private uſe, when I gave lectures of juriſprudence, were multiplied and got into a number of hands, I began to apprehend leſt this work ſhould be publiſhed againſt my will, in a very imperfect and mangled condition. This induced me at length to yield to the ſollicitations of ſeveral of my friends, by communicating the following eſſay to the public. Dubious whether I ſhall ever be able to finiſh the larger work, I have endeavoured to give ſuch an extent to theſe* Principles, *as may render them in ſome meaſure*

*meaſure ſerviceable to ſuch as are deſirous of being initiated into the knowledge of the law of nature. As for thoſe who are maſters of this ſubject, the preſent work is not deſigned for them: my view will be ſufficiently fulfilled, if it ſhould prove of any utility to young beginners in the ſtudy of this important ſcience.*

THE

# CONTENTS.

## PART I.

## General PRINCIPLES of RIGHT.

### CHAP. I.

OF the nature of man conſidered with regard to right: of the underſtanding, and whatever is relative to this faculty. Page 1

Sect. 1. *Deſign of this work: what is meant by* natural law. ibid.
2. *We muſt reduce the principles of this ſcience from the nature and ſtate of man.* 2
3. *Definition of man; what his nature is.* 3
4. *Different actions of man: which are the object of* right? 4
5. *Principal faculties of the ſoul.* 5
6. *The underſtanding; truth.* ibid.
7. Principle. *The underſtanding is naturally right.* 6
8. *In what manner perception, attention, and examen, are formed.* 7

# CONTENTS.

Sect. 9. *Evidence; probability.* page 8
10. *Of the ſenſes, the imagination, and memory.* 9
11. *The perfection of the underſtanding conſiſts in the knowledge of truth. Two obſtacles to this perfection, ignorance and error.* ibid.
12. *Different ſorts of error.* 1. *Error of the law, and of the fact.* 2. *Voluntary and involuntary.* 3. *Eſſential and accidental.* 10

## CHAP. II.

Continuation of the principles relative to the nature of man. Of will and liberty. page 13

Sect. 1. *The will. What happineſs and good conſiſts in.* ibid.
2. *Inſtincts, inclinations, paſſions.* 14
3. *Liberty: in what it conſiſts.* 15
4. *Uſe of liberty in our judgment with reſpect to truth.* 16
5. *Liberty has its exerciſe, even in regard to things that are evident.* 18
*Objection.* 19
*Anſwer.* ibid.
6. *Uſe of liberty with regard to good and evil.* ibid.
7. *With regard to indifferent things.* 20
8. *Why the exerciſe of liberty is reſtrained to non-evident truths, and particular goods.* 21

Sect.

# CONTENTS.

Sect. 9. *The proof of liberty drawn from our inward ſenſe, is ſuperior to any other.* page 23
10. *How comes it that liberty has been conteſted.* 26
11. *Actions are voluntary, and involuntary; free, neceſſary, and conſtrained.* 27
12. *Our faculties help one another reciprocally.* 30
13. *Of reaſon and virtue.* ibid.
14. *Cauſes of the diverſity we obſerve in the conduct of men.* 31
15. *Reaſon has it always in her power to remain miſtreſs.* 32

## CHAP. III.

That man thus conſtituted, is a creature capable of moral direction, and accountable for his actions. page 33
Sect. 1. *Man is capable of direction in regard to his conduct.* ibid.
2. *He is accountable for his actions: they can be imputed to him.* 34
3. *Principle of imputability. We muſt not confound it with imputation.* 35

## CHAP. IV.

Further inquiry into what relates to human nature, by conſidering the different ſtates of man. p. 36
Sect. 1. *Definition. Diviſion.* ibid.
2. *Primitive and original ſtates.* 37
1. *State of man with regard to God.* ibid.

Sect. 3. 2. *State of ſociety.* page 37
4. 3. *State of ſolitude.* 4. *Peace: war.* 38
5. *State of man with regard to the goods of the earth.* 39
6. *Adventitious ſtates.* 1. *Family.* 2. *Marriage.* 40
7. 3. *Weakneſs of man at his birth.* 4. *Natural dependance of children on their parents.* ibid.
8. *The ſtate of property.* 41
9. *Civil ſtate of government.* ibid.
10. *The civil ſtate and property of goods give riſe to ſeveral adventitious ſtates.* 42
11. *True idea of the natural ſtate of man.* ibid.
12. *Difference between original and adventitious ſtates.* 43

## CHAP. V.

That man ought to ſquare his conduct by rule; the method of finding out this rule; and the foundation of the right in general. page 44

Sect. 1. *Definition of a rule.* ibid.
2. *It is not convenient, that man ſhould live without a rule.* 45
3. *A rule ſuppoſes an end, an aim.* 46
4. *The ultimate end of man is happineſs.* ibid.
5. *It is the ſyſtem of providence.* 47
6. *The deſire of happineſs is eſſential to man, and inſeparable from reaſon.* ibid.
7. *Self-love is a principle that has nothing vicious in itſelf.* 48

CONTENTS.

Sect. 8. *Man cannot attain to happineſs but by the help of reaſon.* page 49
9. *Reaſon is therefore the primitive rule of man.* 50
10. *What is right in general?* 51

CHAP VI.

General rules of conduct preſcribed by reaſon. Of the nature and firſt foundation of obligation. p. 52

Sect. 1. *Reaſon gives us ſeveral rules of conduct.* ibid.
2. *Firſt rule. To make a right diſtinction between good and evil.* 53
3. *Second rule. True happineſs cannot conſiſt in things inconſiſtent with the nature and ſtate of man.* 55
4. *Third rule. To compare the preſent and the future together.* 56
*Fourth rule.* ibid.
*Fifth rule.* ibid.
5. *Sixth rule. To give the goods that excel moſt the preference.* 57
6. *Seventh rule. In ſome caſes poſſibility only, and for a much ſtronger reaſon probability, ought to determine us.* 58
7. *Eighth rule. To have a reliſh for true goods.* 59
8. *Our mind acquieſces naturally in thoſe maxims, and they ought to influence our conduct.* 60
9. *Of obligation generally conſidered.* 61
10. *Obligation may be more or leſs ſtrong.* 63

Sect.

Sect. 11. *Dr. Clark's opinion on the nature and origin of obligation.* page 63
12. *Monſieur Barbeyrac's opinion concerning this ſubject.* 64
13. *Two ſorts of obligations; internal and external.* 66

CHAP. VII.

Of right conſidered as a faculty, and of the obligation thereto correſponding. page 67

Sect. 1. *The word* right *is taken in ſeveral particular ſenſes, which are all derived from the general notion.* ibid.
2. *Definition of right, conſidered as a faculty.* 68
3. *We muſt take care to diſtinguiſh between a ſimple power, and right.* 69
4. *General foundation of the rights of man.* 70
5. *Right produces obligation.* ibid.
6. *Right and obligation are two relative terms.* 71
7. *At what time man is ſuſceptible of right and obligation.* ibid.
8. *Several ſorts of rights and obligations.* 73

CHAP. VIII.

Of law in general. page 76

Sect. 1. *As man by nature is a dependent being, the law ought to be the rule of his actions.* ibid.

Sect.

Sect. 2. *Definition of law.* page 78
3. *Why law is defined* a rule preſcribed. ibid.
4. *What is underſtood by* a ſovereign, ſovereignty, and the right of commanding. 79

## CHAP. IX.

Of the foundation of ſovereignty, or the right of commanding. page 81

Sect. 1. *Firſt remark. The queſtion is, in regard to a neceſſary ſovereignty.* ibid.
2. *Second remark. There is neither ſovereignty nor neceſſary dependance between beings perfectly equal.* 82
3. *Different opinions on the origin and foundation of ſovereignty.* 83
4. *Examen of thoſe opinions.* 1. *The ſole ſuperiority of power is inſufficient to found a right of commanding.* 84
5. 2. *Nor the ſole excellence or ſuperiority of nature.* 86
6. 3. *Nor the ſole quality of creator.* 87
7. *True foundation of ſovereignty*; power, wiſdom, and goodneſs joined together. 89
8. *Explication of our opinion.* 90
9. *We muſt not ſeparate the qualities which form the right of ſovereignty.* 92
10. *Definition of ſubjection. Foundation of dependance.* 94
11. *The obligation produced by law, is the moſt perfect that can be imagined.* 95

Sect.

Sect. 12. *Obligation is internal and external at the ſame time.* page 96

## CHAP. X.

Of the end of laws; of their character, differences, &c. page 98

Sect. 1. *Of the end of laws, either in regard to the ſubject, or in reſpect to the ſovereign.* ibid.

2. *The end of laws is not to lay a reſtraint upon liberty, but to direct it in a proper manner.* 99

3. *Examen of what Puffendorf ſays concerning this ſubject.* 100

4. *Of the diſtinction of law into obligatory, and that of ſimple permiſſion.* 101

5. *The opinion of Grotius and Puffendorf upon this ſubject.* ibid.

6. *The rights which men enjoy in ſociety, are founded on this permiſſion.* 102

7. *The matter of laws.* 103

8. *Internal conditions of a law; that it be poſſible, uſeful, and juſt.* ibid.

9. *External conditions of law; that it be made known; and accompanied with a ſanction.* 104

10. *Whether the promiſe of recompence is equally capable, as the commination of puniſhment, to conſtitute the ſanction of law.* 106

CONTENTS.

Sect. 11. *Who thoſe are whom the law obliges. Of diſpenſation.* page 107
12 *Of the duration of laws, and how they are eſtabliſhed.* 108
13. *How many ſorts of laws.* 109

## CHAP. XI.

### Of the morality of human actions.

Sect. 1. *In what the morality of actions conſiſts.* page 111
2. *Actions are,* 1. *either commanded, or forbidden, or permitted.* ibid.
3. *Remarks on permitted actions.* 112
4. 2. *Actions are good or juſt, bad or unjuſt, and indifferent.* 113
5. *Conditions requiſite to render an action morally good.* 114
6. *Of the nature of bad or unjuſt actions.* 115
7. *All juſt actions are equally juſt; but unjuſt actions are more or leſs unjuſt.* 116
8. *Eſſential character of unjuſt actions.* 117
9. *Of indifferent actions.* ibid.
10. *Diviſion of good and bad actions.* 118
11. *Of juſtice and its different kinds.* 119
12. *Of the relative eſtimations of moral actions.* 121
13. *Morality is applicable to perſons as well as actions.* 122

# PART II.

## Of the LAW of NATURE.

### CHAP. I.

IN what the law of nature conſiſts, and that there is ſuch a thing. Firſt conſiderations drawn from the exiſtence of God and his authority over us. page 125


Sect. 1. *Subject of this ſecond part.* ibid.
2. *Whether there are any natural laws.* 126
3. *Of the exiſtence of God.* 127
4. *Firſt proof. The neceſſity of a ſelf-exiſtent and intelligent being.* ibid.
5. *We muſt not ſeek for this being in this material world.* 128
6. *Second proof. The neceſſity of a firſt mover.* 129
7. *Third proof. The ſtructure, order, and beauty of the univerſe.* 130
8. *The world is not the effect of chance.* 131
9. *It is not eternal.* 132
10. *God has a right to preſcribe laws to man.* 133
11. *This is a conſequence of his power, wiſdom, and goodneſs.* 134


CHAP.

## CHAP. II.

That God, in conſequence of his authority over us, has actually thought proper to preſcribe to us laws or rules of conduct. page 137

Sect. 1. *God exerciſes his authority over us, by preſcribing laws to us.* ibid.
2. *Firſt proof drawn from the very relations of which we have been ſpeaking.* ibid.
3. *Second proof, drawn from the end which God propoſed to himſelf with reſpect to man, and from the neceſſity of moral laws, to accompliſh this end.* 138
4. *Confirmation of the preceding proofs.* 139
5. *Third proof, drawn from the goodneſs of God.* 141
6. *Fourth proof, drawn from the principles of conduct which we actually find within ourſelves.* 142
7. *Theſe principles are obligatory of themſelves.* 143
8. *They are obligatory by the divine will, and thus become real laws.* 144

## CHAP. III.

Of the means by which we diſcern what is juſt and unjuſt, or what is dictated by natural law; namely, 1. moral inſtinct, and 2. reaſon. page 145

Sect. 1. *Firſt means of diſcerning moral good and evil, namely, inſtinct or inward ſenſe.* ibid.

Sect. 2. *Examples.* page 146
3. *Whence these sensations proceed.* ibid.
4. *Of what use they are to us.* 147
5. *Objection: these sensations are not found in all men. Answer:* 1. *We find some traces of them among the most savage people.* 148
6. 2. *We must distinguish between the natural state of man, and that of his depravation.* 149
7. 3. *If there be any monsters in the moral order, they are very rare, and no consequence can be drawn from them.* ibid.
8. *Second means of discerning moral good and evil; which is reason.* 150
9. *First advantage of reason in respect to instinct; it serves to verify it.* 151
10. *Second advantage: it unfolds the principles, and from thence infers proper consequences.* ibid.
11. *Third advantage: reason is an universal means, and applicable to all cases.* 152

## CHAP. IV.

Of the principles from whence reason may deduce the law of nature. page 153

Sect. 1. *From whence are we to deduce the principles of the law of nature?* ibid.
2. *Preliminary remarks. What we understand by principles of natural law.* 154
3. *Character of those principles.* ibid.

Sect.

Sect. 4. *Whether we ought to reduce the whole to one ſingle principle.* page 156
5. *Man cannot attain to the knowledge of natural laws, but by examining his nature, conſtitution, and ſtate.* ibid.
6. *Three ſtates of man.* 158
7. *Religion: principle of the natural laws, that have God for their object.* ibid.
8. *Conſequences of this principle.* 159
9. *Self-love: the principle of thoſe natural laws which concern ourſelves.* 161
10. *Natural laws derived from this principle.* 162
11. *Man is made for ſociety.* 163
12. 1. *Society is abſolutely neceſſary for man.* 164
13. 2. *Man by his conſtitution is very fit for ſociety.* 166
14. 3. *Our natural inclinations prompt us to look out for ſociety.* 167
15. *Sociability. Principles of natural laws relative to other men.* 168
16. *Natural laws which flow from ſociability.* 169
1. *The public good ought always to be the ſupreme rule.* 170
2. *The ſpirit of ſociability ought to be univerſal.* ibid.
3. *To obſerve a natural equality.* ibid.
4. *To preſerve a benevolence even towards our enemies. Self-defence is permitted, revenge is not.* ibid.
17. *Particular conſequences.* 171
18. *Theſe three principles have all the requiſite characters.* 173

Sect. 19. *Remarks on Puffendorff's ſyſtem.* page 174
20. *The critics have carried their cenſures too far againſt him in this reſpect.* ibid.
21. *Of the connection between our natural duties.* 175
22. *Of the oppoſition that ſometimes happens between theſe very duties.* 176
23. *Natural law* obligatory, *and natural law of* ſimple permiſſion. *General principle of the law of permiſſion.* 178
24. *Two ſpecies of natural law; one primitive, the other ſecondary.* 179

## CHAP. V.

That natural laws have been ſufficiently notified; of their proper characteriſtics, the obligation they produce, &c. page 181

Sect. 1. *God has ſufficiently notified the laws of nature to man.* ibid.
2. *Men may aſſiſt one another in this reſpect.* ibid.
3. *The manner in which the principles of the laws of nature have been eſtabliſhed, is a freſh proof of the reality of thoſe laws.* 182
4. *Natural laws are the effect of the divine goodneſs.* 183
5. *The laws of nature do not depend on arbitrary inſtitution* 184
6. *Our opinion is not very wide from that of Grotius.* 186

CONTENTS.

Sect. 7. *The effect of the laws of nature, is an obligation of conforming our conduct to them.* page 187
8. *Natural laws are obligatory in respect to all men.* 188
9. *Grotius's opinion with regard to divine, positive, and universal law.* 189
10. *Natural laws are immutable, and admit of no dispensation.* 190
11. *Of the eternity of natural laws.* ibid.

CHAP VI.

Of the laws of nations. page 193

Sect. 1. *How civil societies are formed.* ibid.
2. *The civil state does not destroy, but improve the state of nature.* ibid.
3. *True ideas of civil society.* 194
4. *States are considered under the notion of moral persons.* ibid.
5. *What is the law of nations.* 195
6. *Certainty of this law.* 196
7. *General principle of the law of nations; what polity consists in.* ibid.
8. *Inquiry into Grotius's opinion concerning the law of nations.* 197
9. *Two sorts of law of nations; one of necessity and obligatory by itself; the other arbitrary and conventional.* 199
10. *Use of the foregoing remarks.* 200

# CONTENTS.

## CHAP. VII.

Whether there is any morality of actions, any obligation or duty, *antecedent to the law of nature*, and independent of the idea of a legiſlator. page 202

Sect. 1. *Different opinions of ethic writers with reſpect to the firſt principle of morality.* ibid.
2. *Principles relating to this queſtion.* 203
3. *Three rules of human actions.* 1. *Moral ſenſe.* 2. *Reaſon.* 3. *The divine will.* 205
4. *Theſe three principles ought to be united.* ibid.
5. *Of the primitive cauſe of obligation.* 206
6. *All rules are of themſelves obligatory.* ibid.
7. *Obligation may be more or leſs ſtrong.* 208
8. *Reaſon alone is ſufficient to impoſe ſome obligation on man.* 209
9. *Objection. Nobody can oblige himſelf.* 210
10. *Anſwer.* 211
11. *A freſh objection.* 212
12. *Duty may be taken in a looſe or ſtrict ſenſe.* 213
13. *Reſult of what has been hitherto ſaid.* 214
14. *This manner of eſtabliſhing morality does not weaken the ſyſtem of natural law.* 216
15. *Grotius's opinion examined.* 217
16. *In order to have a perfect ſyſtem of morality, we ſhould join it with religion.* 218

CHAP.

# CONTENTS.

## CHAP. VIII.

Conſequences of the preceding chapter: reflections on the diſtinctions of juſtice, honeſty, and utility. page 219

Sect. 1. *There is a great deal of ambiguity and miſtake concerning this ſubject.* ibid.
2. *Of juſtice, honeſty, utility, order, and fitneſs.* 220
3. *Juſtice, honeſty, and utility, are diſtinct things, and muſt not be confounded.* 221
4. *But though they are diſtinct, yet they are naturally connected.* ibid.
5. *Whether an action is juſt, becauſe God commands it?* 223
6. *In what the beauty of virtue and the perfection of man conſiſts.* ibid.

## CHAP. IX.

Of the application of natural laws to human actions; and firſt of conſcience. page 225

Sect. 1. *What is meant by applying the laws to human actions.* ibid.
2. *What is conſcience.* 226
3. *Conſcience ſuppoſes a knowledge of the law.* ibid.
4. *Firſt rule.* 227
5. *Second and third rules.* 228
6. *Antecedent and ſubſequent conſcience. Fourth rule.* 230

Sect.

Sect. 7. *Subsequent conscience is either quiet, or uneasy.* page 231
8. *Decisive and dubious conscience. Fifth, sixth, and seventh rule.* 232
9. *Scrupulous conscience. Eighth rule.* 234
10. *Right and erroneous conscience. Ninth rule.* ibid.
11. *Demonstrative and probable conscience. Tenth rule.* 236

## CHAP. X.

Of the merit and demerit of human actions; and of their imputation relative to the laws of nature.

page 237
Sect. 1. *Distinction of imputability and imputation. Of the nature of a moral cause.* ibid.
2. *Of the nature of imputation. It supposes a knowledge of the law as well as of the fact.* 238
3. *Examples.* 239
4. *Principles.* 1. *We ought not to infer actual imputation from imputability only.* 240
5. 2. *Imputation supposes some connexion between the action and its consequences.* 241
6. 3. *Foundation of merit and demerit.* 242
7. *In what merit and demerit consists.* 243
8. 4. *Merit and demerit have their degrees; and so has imputation.* 244

Sect.

CONTENTS.

Sect. 9. 5. *Imputation is either ſimple or efficacious.* page 244
10. 6. *Effects of one and the other.* 245
11. 7. *If thoſe who are concerned, do not impute an action, it is ſuppoſed not to have been committed.* 246
12. 8. *Difference between the imputation of good and bad actions.* 247

CHAP. XI.

Application of thoſe principles to different ſpecies of actions, in order to judge in what manner they ought to be imputed. page 248

Sect. 1. *What actions are actually imputed?* ibid.
2. *Actions of ſuch as have not the uſe of reaſon.* ibid.
3. *Of what's done in drunkenneſs.* ibid.
2. *Of things impoſſible. Of the want of opportunity.* 249
3. *Of natural qualities.* ibid.
4. *Of events produced by external cauſes.* 250
5. *Of what is done through ignorance or error.* ib.
6. *Of the effect of temperament, habits, or paſſions.* 251
7. *Of forced actions.* 252
8. *Forced actions are in themſelves either good, bad, or indifferent.* 253
9. *Why a bad action, though forced, may be imputed.* 255
10. *Puffendorf's opinion.* 257
11. *Of actions in which more perſons than one are concerned.* 258

Sect.

Sect. 12. *Three ſorts of moral cauſes; principal; ſubaltern; and collateral.* page 260
13. *Application of theſe diſtinctions.* 264

## CHAP. XII.

Of the authority and ſanction of natural laws: and 1. of the good and evil that naturally and generally follow from virtue and vice. page 266

Sect. 1. *What is meant by the authority of natural laws.* ibid.
2. *The obſervance of natural laws forms the happineſs of man and ſociety.* 267
3. *Explications on the ſtate of the queſtion.* ibid.
4. *Proof of the abovementioned truth, by reaſon.* 268
5. *Proofs by experience.* 1. *Virtue is of itſelf the principle of inward ſatisfaction; and vice a principle of diſquiet and trouble.* 269
6. *Of external goods and evils, which are the conſequence of virtue and vice.* 270
7. *Theſe different effects of virtue and vice are ſtill greater among thoſe who are inveſted with power and authority.* 271
8. *Confirmation of this truth by the confeſſion of all nations.* 272
9. *Confirmation of the ſame truth by the abſurdity of the contrary.* ibid.

Sect. 10. *Anſwer to ſome particular objections.* p. 273
11. *The advantage always ranges itſelf on the ſide of virtue; and this is the firſt ſanction of the laws of nature.* 275
12. *General difficulty drawn from the exceptions, which render this firſt ſanction inſufficient.* 276
*The goods and evils of nature and fortune are diſtributed unequally, and not according to each perſon's merit.* ibid.
*The evils produced by injuſtice fall as well upon the innocent as the guilty.* ibid.
*Sometimes even virtue itſelf is the cauſe of perſecution.* 277
13. *The means which human prudence employs to remedy thoſe diſorders, are likewiſe inſufficient.* ibid.
14. *The difficulty propoſed, is of great conſequence.* 279

## CHAP. XIII.

Proofs of the immortality of the ſoul. That there is a ſanction properly ſo called in reſpect to natural laws. page 280

Sect. 1. *State of the queſtion.* ibid.
2. *Diviſion of opinions. How it is poſſible to know the will of God in reſpect to this point.* 281

Sect. 3. *Whether the ſoul is immortal?* page 282
4. *Firſt proof. The nature of the ſoul ſeems intirely diſtinct from that of the body.* ibid.
5. *Death does not therefore neceſſarily imply the annihilation of the ſoul.* 283
6. *Objection. Anſwer.* 284
7. *Confirmation of the preceding truth. Nothing in nature is annihilated.* ibid.
8. *Second proof. The excellency of the ſoul.* 285
9. *Confirmations. Our faculties are always ſuſceptible of a greater degree of perfection.* 286
10. *Objection. Anſwer.* 287
11. *Third proof, drawn from our natural diſpoſitions and deſires.* 288
12. *The ſanction of natural laws will ſhew itſelf in a future life.* 289
13. *Firſt proof, drawn from the nature of man conſidered on the moral ſide.* 290
14. *Second proof, drawn from the perfections of God.* 291
15. *The objection drawn from the preſent ſtate of things ſerves to prove the ſentiment it oppoſes.* 295
16. *The belief of a future ſtate has been received by all nations.* 296

CHAP.

# CONTENTS.

## CHAP. XIV.

That the proofs we have alledged have ſuch a probability and fitneſs, as renders them ſufficient to fix our belief, and to determine our conduct. page 297

Sect. 1. *The proofs we have given of the ſanction of natural laws are ſufficient.* ibid.

2. *Objection. Theſe proofs contain no more than a probability or fitneſs. General anſwer.* ibid.

3. *What is meant by a probability or fitneſs.* 298

4. *General foundation of this manner of reaſoning.* 299

5. *This kind of fitneſs is very ſtrong in reſpect to natural law.* 300

6. *This fitneſs has different degrees. Principles to judge of it.* ibid.

7. *Application of theſe principles to our ſubject.* 301

8. *Compariſon of the two oppoſite ſyſtems.* ibid.

9. *The ſyſtem of the ſanction of natural laws is far preferable to the oppoſite ſyſtem.* 303

10. *Objection. Anſwer.* 304

11. *Of the influence which thoſe proofs ought to have over our conduct. We ſhould act in this world on the foundation of the belief of a future ſtate.* ibid.

Sect.

Sect. 12. *It is a neceſſary conſequence of our nature and ſtate.* page 306
13. *Reaſon lays us under an obligation of ſo doing.* 307
14. *It is a duty that God himſelf impoſes on us.* 308
15. *Concluſion.* 309
16. *That which is already probable by reaſon only, is ſet in full evidence by revelation.* ibid.

THE

THE

# PRINCIPLES

OF

# NATURAL LAW.

## PART I.

### General PRINCIPLES of RIGHT.

### CHAP. I.

*Of the Nature of Man conſidered with regard to Right: Of the Underſtanding, and whatever is relative to this Faculty.*

I. MY deſign is to enquire into thoſe rules which nature alone preſcribes to man, in order to conduct him ſafely to the end, which every one has, and indeed ought to have, in view, namely, true and ſolid happineſs. The ſyſtem or aſſemblage of theſe rules, conſidered as ſo many laws impoſed by God on man, is generally diſtinguiſhed by the name of *Natural Law*. This ſcience includes the moſt

Deſign of this work: What is meant by *Natural Law*.

important principles of morality, juriſprudence, and politics, that is, whatever is moſt intereſting in reſpect as well to man as to ſociety. There can be nothing therefore more deſerving of the application of a rational being, of a being that has its perfection and felicity ſeriouſly at heart. A juſt knowledge of the maxims we ought to follow in the courſe of life, is the principal object of wiſdom; and virtue conſiſts in putting them conſtantly in practice, without being ever diverted from ſo noble a purſuit.

We muſt deduce the principles of this ſcience from the nature and ſtate of man.

II. The idea of *Right*, and much more that of *Natural Right*, are undoubtedly relative to the nature of man. It is from this nature therefore, from the conſtitution and ſtate of man, that we are to deduce the principles of this ſcience.

The word *Right* (*Droit**) in its original ſignification, comes from the verb *dirigo*, which implies, to conduct a perſon to ſome certain end by the ſhorteſt road. Right, therefore, in its proper and moſt general ſenſe, and that to which all the others muſt be reduced, is whatever directs, or is properly directed. This being premiſed, the firſt thing we have to examine is, whether man is ſuſceptible of direction and rule in reſpect to his actions. That we may attempt this with a greater probability of ſucceſs, we are to trace matters to their very origin, and aſcending as high as the nature and conſtitution of man, we muſt there unravel the principle of his actions, and the ſeveral ſtates that properly belong to him, in order to demonſtrate afterwards in what manner, and how

* *The etymology given here by the Author was intended only for the French word* Droit.

far,

far, he is ſuſceptible of direction in his conduct. This is the only method of knowing what is *right*, and what is not.

III. Man is an animal endowed with underſtanding, and reaſon; a being compoſed of an organized body, and a rational ſoul. Definition of man; what his nature is.

With regard to his body, he is pretty ſimilar to other animals, having the ſame organs, properties, and wants. This is a living body, organized and compoſed of ſeveral parts; a body that moves of itſelf, and feeble in the commencement, increaſes gradually in its progreſs by the help of nouriſhment, till it arrives to a certain period, in which it appears in its flower and vigor, from whence it inſenſibly declines to old age, which conducts it at length to diſſolution. This is the ordinary courſe of human life, unleſs it happens to be abridged by ſome malady or accident.

But man, beſides the marvelous diſpoſition of his body, has likewiſe a rational ſoul, which eminently diſcriminates him from brutes. It is by this noble part of himſelf that he thinks, and is capable of forming juſt ideas of the different objects that occur to him; of comparing them together; of inferring from known principles unknown truths; of paſſing a ſolid judgment on the mutual fitneſs or agreement of things, as well as on the relations they bear to us; of deliberating on what is proper or improper to be done; and of determining conſequently to act one way or other. The mind recollects what is paſt, joins it with the preſent, and extends its views to futurity. It is capable of penetrating into the cauſes, progreſs, and conſequence of things, and of diſco-

vering, as it were at one glance, the intire courſe of life, which enables it to lay in a ſtore of ſuch things as are neceſſary for making a happy career. Beſides, in all this, it is not ſubject to a conſtant ſeries of uniform and invariable operations, but finds itſelf at liberty to act or not to act, to ſuſpend its actions and motions, to direct and manage them as it thinks proper.

Different actions of man: Which are thoſe that are the object of *Right?*

IV. Such is the general idea we are to form of the nature of man. What reſults from hence is, that there are ſeveral ſorts of human actions: ſome are purely ſpiritual, as to think, to reflect, to doubt, &c. others are merely corporeal, as to breathe, to grow, &c. and ſome there are that may be called mixt, in which the ſoul and body have both a ſhare, being produced by their joint concurrence, in conſequence of the union which God has eſtabliſhed between theſe two conſtituent parts of man; ſuch as to ſpeak, to work, &c.

Thoſe actions, which either in their origin or direction depend on the ſoul, are called human or voluntary; all the reſt are termed merely phyſical. The ſoul is therefore the principle of human actions; and theſe actions cannot be the object of rule, but inaſmuch as they are produced and directed by thoſe noble faculties with which man has been inriched by his Creator. Hence it is neceſſary to enter into a particular inquiry concerning this ſubject, and to examine cloſely into the faculties and operations of the ſoul, in order to diſcover in what manner they concur to the production of human actions. This will help us, at the ſame time, to unfold the nature of

theſe

theſe actions, to aſſure ourſelves whether they are really ſuſceptible of rule, and how far they are ſubject to human command.

Principal faculties of the ſoul.

V. Let man reflect but ever ſo little on himſelf, ſenſe and experience will ſoon inform him, that his ſoul is an agent, whoſe activity diſplays itſelf by a ſeries of different operations; which having been diſtinguiſhed by ſeparate names, are likewiſe attributed to different faculties. The chief of theſe faculties are the underſtanding, will, and liberty. The ſoul is, indeed, a ſimple being; but this does not hinder us, when we attend to its different ways of operating, from conſidering it as a ſubject in which different powers of acting reſide, and from giving different denominations to theſe powers. If we conſider the thing in this manner, we ſhall find it will give a greater exactneſs and perſpicuity to our ideas. Let us remember therefore, that theſe faculties are nothing elſe but the different powers of acting inherent in the mind, by means of which it performs all its operations.

The underſtanding; truth.

VI. The principal faculty of the ſoul, that which conſtitutes the fundamental part of its being, and ſerves, as it were, for its intrinſic light, is the underſtanding. We may define it that faculty or power, by which the mind perceives, and forms ideas of things, in order to come at the knowledge of truth. Truth may be taken here in two ſignifications; either for the nature, ſtate, and mutual relations of things; or for the ideas agreeable to this nature, ſtate, and relations. To have a knowledge therefore of truth,

is to perceive things ſuch as they are in themſelves, and to form ideas concerning them conformable to their nature.

*Principle,* The underſtanding is naturally right,

VII. We muſt therefore ſet out with acknowledging as a fixt and unconteſtable principle, that the human underſtanding is naturally right, and has within itſelf a ſtrength ſufficient to arrive at the knowledge of truth, and to diſtinguiſh it from error; eſpecially in things wherein our reſpective duties are concerned, and which are requiſite to form man for a virtuous, honourable, and quiet life; provided, however, he employs all the care and attention that lies in his power.

Senſe and experience concur to convince us of the truth of this principle; which is the hinge, as it were, whereon the whole ſyſtem of humanity turns. It cannot be called in queſtion, without ſapping the foundation, and intirely ſubverting the whole ſtructure of ſociety; becauſe this would be annulling all manner of diſtinction between truth and error, and between good and evil; and by a natural conſequence of this ſubverſion, we ſhould find ourſelves reduced to the neceſſity of doubting of every thing; which is the higheſt pitch of human extravagance.

Thoſe who pretend that reaſon and its faculties are depraved in ſuch a manner, as to be no longer capable of ſerving as a ſure and faithful guide to man, either in reſpect to his duties, or particularly with regard to religion; do not reflect that they have adopted for the baſis of their ſyſtem, a principle deſtructive of all truth, and conſequently of religion. Thus we ſee that the ſacred ſcripture, far from

eſtabliſhing any ſuch maxim, aſſures us *, that *when the Gentiles which have not the law, do by nature the things contained in the law; theſe having not the law, are a law to themſelves. Which ſhew the work of the law written in their hearts, their conſcience alſo bearing witneſs.*

True it is, that a bad education, vicious habits, and irregular paſſions, may offuſcate the mind; and that neglect, levity, and prejudices, precipitate men frequently into the groſſeſt errors in point of religion and morals. But this proves only that men may make a bad uſe of their reaſon, and not that the natural rectitude of the faculties is ſubverted. What we have ſtill to ſay, concerning this point, will help to ſet it in a clearer light.

In what manner perception, attention, and examen are formed.

VIII. Let us proceed now to a cloſer inquiry into the operations of the underſtanding. The perception, or view and knowledge of things, is commonly formed by the concurrence of two actions; one from the object, and is the impreſſion which this object makes on us; the other from the mind, and is properly a glance, or ſimple view of the ſoul, on the object it is deſirous of knowing. But as a firſt view is not always ſufficient, it is neceſſary that the mind ſhould apply itſelf for ſome time to a ſerious conſideration of the object, to the end it may acquire a juſt knowledge of things, and form thereof exact ideas. This application, with which the ſoul continues to view the object in order to know it well, is called attention; and if it turns itſelf different ways, to conſider the object on all ſides, this is

* Rom. ii. 14, 15.

termed examen or inquiry. We may therefore affirm, that the perception or knowledge of things depends intirely, in reſpect to the mind, on its natural vigor and attention.

Evidence; Probability.

IX. It is by theſe helps, drawn from his own fund, that man attains at length a clear and diſtinct knowledge of things, and their relations; as alſo of ideas, and the conformity of thoſe ideas to their originals; in ſhort, that he acquires the knowledge of truth. We give the name of evidence, to this clear and diſtinct view of things, and of their mutual relations; a point to which we ſhould be particularly attentive. For this evidence being the eſſential characteriſtic of truth, or the ſure mark whereby one cannot help diſtinguiſhing it, the conſequence is, that it neceſſarily produces ſuch an internal conviction, as forms the higheſt degree of certainty. It is true that all objects do not preſent themſelves with ſo ſtrong a light, and that notwithſtanding the great care and application a man may uſe, all that he is frequently able to attain, is only a glimmering light, which, according to its ſtrength or weakneſs, produces different degrees of probability and ſeeming truth. But this muſt be abſolutely the caſe of every being, whoſe faculties are limited: It is ſufficient that man, in reſpect to his deſtination and ſtate, is capable of knowing with certainty thoſe things which concern his perfection and happineſs; and moreover, that he is able to diſtinguiſh between probability and evidence, as alſo between the different degrees of probability, in order to proportion his aſſent to thoſe differences. Now a perſon need but enter never ſo little into himſelf,

ſelf, and reflect on the operations of his mind, to be convinced, beyond any poſſibility of doubt, that man is really poſſeſſed of this diſcernment.

Of the ſenſes, the imagination, and memory.

X. The ſenſes, taken for the ſenſitive faculty, the imagination alſo, and the memory, muſt be all reduced to the underſtanding. In fact, the ſenſes, conſidered in this manner, are nothing elſe but the underſtanding itſelf, as it makes uſe of the ſenſes and organs of the body, to perceive corporeal objects. The imagination likewiſe is nothing but the underſtanding, as it perceives abſent objects, not in themſelves, but by their images formed in the brain. The memory, in fine, is no more than the underſtanding, conſidered as poſſeſſed of the faculty of retaining the ideas it forms of things, and capable of repreſenting them to itſelf whenever there is occaſion; advantages that principally depend on the care we take in repeating frequently thoſe ideas.

The perfection of the underſtanding conſiſts in the knowledge of truth. Two obſtacles to this perfection, ignorance and error.

XI. From what has been hitherto ſaid with regard to the underſtanding, it follows, that the object of this faculty of the ſoul is truth, with all the acts and means that lead us to it. Upon this ſuppoſition, the perfection of the underſtanding conſiſts in the knowledge of truth, this being the end for which it is deſigned.

There are two things, among others, oppoſite to this perfection, ignorance and error, which are two maladies, as it were, of the mind. Ignorance is no more than a privation of ideas or knowledge; but error is a nonconformity or oppoſition of our ideas to the nature and ſtate of things. Error being therefore the

the ſubverſion of truth, is much more oppoſite to it than ignorance, which is a kind of medium between truth and error.

It is to be obſerved here, that we do not ſpeak of the underſtanding, truth, ignorance, and error, purely to know what theſe things are in themſelves; our main deſign is to conſider them as principles of our actions. In this light, ignorance and error, though naturally diſtinct from one another, are generally mixt, as it were, and confounded; inſomuch, that whatſoever is ſaid of one, ought equally to be applied to the other. Ignorance is frequently the cauſe of error; but whether joined or ſeparate, they follow the ſame rules, and produce the ſame effect by the influence they have over our actions or omiſſions. Perhaps, were we to examine into things exactly, error only, properly ſpeaking, can be looked upon as a principle of action, and not ſimple ignorance, which being nothing more of itſelf than a privation of ideas, cannot be productive of any thing.

Different ſorts of errors. 1. Error of the law, and of the fact. 2. Voluntary and involuntary. 3. Eſſential and accidental.

XII. There are ſeveral ſorts of ignorance and error, whoſe different diviſions it is proper for us to obſerve. 1. Error conſidered in reſpect to its object, is either of the law or of the fact. 2. With regard to its origin, ignorance is voluntary or involuntary, error is vincible or invincible. 3. In relation to the influence of the error on a particular affair or action, it is eſteemed eſſential or accidental.

Error is of the law or fact according as people are miſtaken either in reſpect to the diſpoſition of the law, or in regard to a fact that is not ſufficiently known. For inſtance, it would be an error of the law,

law, were a prince to ſuppoſe himſelf intitled to declare war againſt a neighbouring ſtate, only becauſe it inſenſibly increaſes in ſtrength and power. Such was likewiſe the error ſo common formerly among the Greeks and Romans, that it was allowable for parents to expoſe their children. * On the contrary, the idea Abimelech had of Sarah the wife of Abraham, by taking her for an unmarried perſon, was an error of the fact.

The ignorance a perſon lies under through his own fault, or an error contracted by neglect, and which might have been avoided by uſing all poſſible care and attention, is a voluntary ignorance, or a vincible and ſurmountable error. Thus the polytheiſm of the Pagans was a vincible error; for they had only to make a right uſe of their reaſon, in order to be convinced that there was no neceſſity for ſuppoſing a plurality of gods. The ſame may be ſaid of an opinion eſtabliſhed among moſt of the ancients, that piracy was lawful againſt thoſe with whom there was no treaty ſubſiſting, and that it was allowable to conſider them as enemies. Ignorance is involuntary, and error invincible, when they are ſuch as could neither have been prevented nor removed, even by all the care and endeavours that are morally poſſible; that is, judging of them according to the conſtitution of human things, and of common life. Thus the ignorance of the chriſtian religion, under which the people of America laboured, before they had any communication with the Europeans, was an involuntary and invincible ignorance.

* See another example in St. Matthew, chap. xv. 4, 5.

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In fine, we underſtand by an eſſential error, that whoſe object is ſome neceſſary circumſtance in the affair, and which for this very reaſon has a direct influence on the action done in conſequence thereof; inſomuch, that were it not for this error, the action would never have been done. Hence this is denominated likewiſe an efficacious error. By neceſſary circumſtances, we are to underſtand thoſe which are neceſſarily required, either by the very nature of the thing, or by the intention of the agent, formed at the proper time, and made known by ſuitable indications. It was thus, for inſtance, an eſſential error in the Trojans, at the taking of their town, to ſhoot their darts againſt their own people, miſtaking them for enemies, becauſe of their being armed after the Greek manner. Again; a perſon marries another man's wife, ſuppoſing her to be a maid, or not knowing that her huſband is ſtill living: this regards the very nature of the thing, and is of courſe an eſſential error.

On the contrary, accidental error is that which has no neceſſary connexion of itſelf with the affair, and conſequently cannot be conſidered as the real cauſe of the action. A perſon abuſes or inſults another, taking him for ſomebody elſe, or becauſe he ſuppoſes the prince is dead, as it had been groundleſly reported, &c. Theſe are errors merely accidental, which ſubſiſt indeed in the mind of the agent, and have accompanied him in the action, but cannot be conſidered as its real cauſe.

It is likewiſe obſervable, that theſe different qualities of ignorance or error may concur, and be found united in the ſame caſe. It is thus an error of the fact may be

be either eſſential or accidental; and both the one and the other may be either voluntary or involuntary, vincible or invincible.

So much may ſuffice for what regards the underſtanding. Let us proceed now to examine into the other faculties of the ſoul, which concur alſo to the production of human actions.

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## CHAP. II.

### *Continuation of the principles relative to the nature of man. Of will and liberty.*

The Will. What happineſs and good conſiſt in.

I. IT was not ſufficient, purſuant to the views of the Creator, that the human mind ſhould be poſſeſſed of the faculty of knowing things, and of forming thereof ideas; it was likewiſe requiſite it ſhould be endowed with an active principle to ſet it in motion, and with a power whereby man, after knowing the objects that occur to him, ſhould be capable of determining to act or not to act, according as he judges proper. This faculty is what we call the will.

The will is therefore nothing elſe but that power of the ſoul, by which it is determined of itſelf, and by virtue of an active principle inherent in its nature, to ſeek for what is agreeable to it, to act after a certain manner, and to do or to omit an action, with a view of happineſs.

By *Happineſs* we are to underſtand the internal ſatisfaction of the mind, ariſing from the poſſeſſion of

of good; and by good whatever is ſuitable or agreeable to man for his preſervation, perfection, conveniency, or pleaſure. The idea of good determines that of evil, which, in its moſt general ſignification, implies whatever is oppoſite to the preſervation, perfection, conveniency, or pleaſure of man.

**Inſtincts, inclinations, paſſions.**

II. Inſtincts, inclinations, and paſſions, are reducible to the will. Inſtincts are ſentiments excited in the ſoul by the wants of the body, which determine it to provide immediately againſt them. Such are hunger, thirſt, the averſion for whatever is hurtful, &c. The inclinations are a propenſity of the will, which leads it rather towards ſome ſorts of objects than others, but in an even tranquil manner, a manner ſo proportioned to all its operations, that inſtead of obſtructing or interrupting, it generally facilitates them. As for the paſſions, they are, indeed, in the ſame manner as the inclinations, motions of the will towards certain objects, but motions of a more impetuous and turbulent kind, motions that diſpoſſeſs the ſoul of its natural tranquillity, and hinder it from directing properly its operations. Then it is that the paſſions become moſt dangerous diſtempers. The cauſe of the paſſions is, generally, the allurement of ſome ſenſible good, which ſolicits the ſoul, and impels it with too violent an impreſſion

It is eaſy to conceive, by what has been here ſaid, that the inclinations, paſſions, and inſtincts, have a very great affinity with one another. They are all alike propenſities or motions, which have frequently the ſame objects; but there is this difference between

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theſe three ſpecies of motions, that inſtincts are neceſſarily the ſame in all men, by a natural conſequence of their conſtitution, and of the union between the body and the ſoul; whereas the inclinations and paſſions, particularly conſidered, have nothing neceſſary in their nature, and are ſurpriſingly different in different men.

Let us make an obſervation here, which falls in very naturally: it is that we often give the name of *Heart* to the will, conſidered as ſuſceptible of the forementioned motions; and the reaſon of this in all probability is, becauſe theſe motions were ſuppoſed to have their ſeat in the heart.

III. Such is the nature of the ſoul, that the will not only acts always ſpontaneouſly, that is, of its own proper motion, of its own accord, and by an internal principle; but likewiſe, that its determinations are generally accompanied with liberty. Liberty: in what it conſiſts.

We give the name of liberty to that force or power of the ſoul, whereby it modifies and regulates its operations as it pleaſes, ſo as to be able to ſuſpend, continue, or alter its deliberations and actions; in a word, ſo as to be capable to determine and act with choice, according as it thinks proper. It is by this excellent faculty, that man has a kind of command over himſelf and his actions: and as he is hereby rendered alſo capable of conforming to rule, and anſwerable for his conduct, it is therefore neceſſary to give a further explication of the nature of this faculty.

Will and liberty being faculties of the ſoul, they cannot be blind or deſtitute of knowledge; but neceſ-

neceſſarily ſuppoſe the operation of the underſtanding. How is it poſſible in fact to determine, ſuſpend, or alter our reſolutions, unleſs we know what is proper for us to chuſe? It is contrary to the nature of an intelligent and rational being to act without intellection and reaſon. This reaſon may be either ſuperficial or bad; yet it has ſome appearance at leaſt, ſome glimmering, that makes us give it a momentary approbation. Wherever there is election or choice, there muſt be a compariſon; and a compariſon implies at leaſt a confuſed reflection, a kind of deliberation, though of a quick and almoſt imperceptible nature, on the ſubject before us.

The end of our deliberations is to procure us ſome advantage. For the will tends generally towards good, that is, to whatſoever is really or apparently proper for rendering us happy; inſomuch, that all actions depending on man, and that are any way relative to his end, are for this very reaſon ſubject to the will. And as truth, or the knowledge of things, is agreeable to man; and in this ſignification truth is alſo a good, it follows therefore that truth forms one of the principal objects of the will.

Liberty, like the will, has goodneſs and truth for its object; but it has leſs extent with regard to actions; for it does not exerciſe itſelf in all the acts of the will, but only in thoſe which the ſoul has a power of ſuſpending or altering as ſhe pleaſes.

Uſe of liberty in our judgments in reſpect to truth.

IV. But if any one ſhould inquire which are thoſe acts wherein liberty diſplays itſelf? We anſwer, that they are eaſily known, by attending to what paſſes within us, and to the manner in which the mind conducts

conducts itself in the several cases that daily occur: as, in the first place, in our judgments concerning true and false; secondly, in our determinations in relation to good and evil; and finally, in indifferent matters. These particulars are necessary, in order to be acquainted with the nature, use, and extent of liberty.

With regard to truth, we are formed in such a manner, that so soon as evidence strikes the mind, we are no longer at liberty to suspend our judgment. Vain would be the attempt to resist this sparkling light; it absolutely forces our assent. Who, for example, could pretend to deny that the whole is greater than its part, or that harmony and peace are preferable, either in a family or state, to discord, tumults, and war?

The same cannot be affirmed in regard to things that have less perspicuity and evidence; for in these the use of liberty displays itself in its full extent. It is true our mind inclines naturally to that side which seems the most probable; but this does not debar it from suspending its assent, in order to seek for new proofs, or to refer the whole inquiry to another opportunity. The obscurer things are, the more we are at liberty to hesitate, to suspend, or defer our determination. This is a point sufficiently evinced by experience. Every day, and at every step, as it were, disputes arise, in which the arguments on both sides leave us, by reason of our limited capacity, in a kind of doubt and equilibrium, which permits us to suspend our judgment, to examine the thing anew, and to incline the balance at length to one side more than the other. We find, for example,

that the mind can heſitate a long time, and forbear determining itſelf, even after a mature inquiry, in reſpect to the following queſtions: Whether an oath extorted by violence is obligatory? Whether the murder of Cæſar was lawful? Whether the Roman ſenate could with juſtice refuſe to confirm the promiſe made by the Conſuls to the Samnites, in order to extricate themſelves from the *Caudine Forks*; or whether they ought to have ratified and given it the force of a public treaty? &c.

Liberty has its exerciſe, even in regard to things that are evident.

V. Though there is no exerciſe of liberty in our judgment, when things preſent themſelves to us in a clear and diſtinct manner; ſtill we muſt not imagine that the intire uſe of this faculty ceaſes in reſpect to things that are evident. For in the firſt place, it is always in our power to apply our minds to the conſideration of thoſe things, or elſe to divert them from thence, by transferring ſomewhere elſe our attention. This firſt determination of the will, by which it is led to conſider or not to conſider the objects that occur to us, merits particular notice, becauſe of the natural influence it muſt have on the very determination, by which we conclude to act or not to act, in conſequence of our reflection and judgment. Secondly, we have it likewiſe in our power to create, as it were, evidence in ſome caſes, by dint of attention, and inquiry; whereas at firſt ſetting out, we had only ſome glimmerings, inſufficient to give us an adequate knowledge of the ſtate of things. In fine, when we have attained this evidence, we are ſtill at liberty to dwell more or leſs on the conſideration thereof; which is alſo of great conſequence, becauſe on this depends its greater or leſſer degree of impreſſion.

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Theſe remarks lead us to an important reflection, which may ſerve for anſwer to an objection raiſed againſt liberty. "It is not in our power (ſay they) "to perceive things otherwiſe than as they offer "themſelves to our mind; now our judgments are "formed on this perception of things; and it is by "theſe judgments that the will is determined: The "whole is therefore neceſſary and independent of "liberty." Objection.

But this difficulty carries little more with it than an empty appearance. Let people ſay what they will, we are always at liberty to open or to ſhut our eyes to the light; to exert, or relax our attention. Experience ſhews, that when we view an object in different lights, and determine to ſearch into the bottom of matters, we deſcry ſeveral things that eſcaped us at firſt ſight. This is ſufficient to prove that there is an exerciſe of liberty in the operations of the underſtanding, as well as in the ſeveral actions thereon depending. Anſwer.

VI. The ſecond queſtion we have to examine, is whether we are equally free in our determinations, in regard to good and evil. Uſe of liberty with regard to good and evil.

To decide this point, we need not ſtir out of ourſelves; for here alſo by facts, and even by our internal experience, the queſtion may be determined. Certain it is, that in reſpect to good and evil conſidered in general, and as ſuch, we cannot, properly ſpeaking, exerciſe our liberty, by reaſon that we feel ourſelves drawn towards the one by an invincible propenſity, and eſtranged from the other by a natural and inſuperable averſion. Thus it has been ordered

by the author of our being, whilſt man has no power in this reſpect to change his nature. We are formed in ſuch a manner, that good of neceſſity allures us; whereas evil, by an oppoſite effect, repels us, as it were, and deters us from attempting to purſue it.

But this ſtrong tendency to good, and natural averſion to evil in general, does not debar us from being perfectly free in reſpect to good and evil particularly conſidered; and though we cannot help being ſenſible of the firſt impreſſions which the objects make on us, yet this does not invincibly determine us to purſue or ſhun thoſe objects. Let the moſt beautiful and moſt fragrant fruit, repleniſhed with exquiſite and delicious juice, be unexpectedly ſet before a perſon oppreſſed with thirſt and heat; he will find himſelf inſtantly inclined to ſeize on the bleſſing offered to him, and to eaſe his inquietude by a ſalutary refreſhment. But he can alſo ſtop, and ſuſpend his action, in order to examine whether the good he propoſes to himſelf, by eating this fruit, will not be attended with evil; in ſhort, he is at liberty to weigh and deliberate, in order to embrace the ſafeſt ſide of the queſtion. Beſides, we are not only capable, with the aſſiſtance of reaſon, to deprive ourſelves of a thing, whoſe flattering idea invites us; but moreover we are able to expoſe ourſelves to a chagrin or pain, which we dread and would willingly avoid, were we not induced by ſuperior conſiderations to ſupport it. Can any one deſire a ſtronger proof of liberty?

With regard to indifferent things.

VII. True it is notwithſtanding, that the exerciſe of this faculty never diſplays itſelf more than in indifferent

different things. I find, for inſtance, that it depends intirely on myſelf to ſtretch out or draw back my hand; to ſit down or to walk; to direct my ſteps to the right or left, &c. On theſe occaſions, where the ſoul is left intirely to itſelf, either for want of external motives, or by reaſon of the oppoſition, and, as it were, the equilibrium of theſe motives, if it determines on one ſide, this may be ſaid to be the pure effect of its pleaſure and good will, and of the command it has over its own actions.

Why the exerciſe of liberty is reſtrained to non-evident truths, and particular goods.

VIII. Let us ſtop here a while to inquire, how comes it that the exerciſe of this power is limited to particular goods and non-evident truths, without extending itſelf to good in general, or to ſuch truths as are perfectly clear. Should we happen to diſcover the reaſon thereof, it will furniſh us with a new ſubject to admire the wiſdom of the Creator in the conſtitution of man, and with a means at the ſame time of being better acquainted with the end and true uſe of liberty.

And firſt we hope there is nobody but will admit, that the end of God in creating man was to render him happy. Upon this ſuppoſition, it will be ſoon agreed, that man cannot attain to happineſs any other way than by the knowledge of truth, and by the poſſeſſion of real good. This is evidently the reſult of the notions above given of good and happineſs. Let us therefore direct our reflections towards this proſpect. When things, that are the object of our reſearches, preſent themſelves to our minds with a feeble light, and are not accompanied with that ſplendor and clearneſs, which enables us to know them

perfectly, and to judge of them with full certainty; it is proper and even neceſſary for us to be inveſted with a power of ſuſpending our judgment; to the end that being neceſſarily determined to acquieſce in the firſt impreſſion, we ſhould be ſtill at liberty to carry on our inquiry, till we arrive to a higher degree of certainty, and if poſſible, as far as evidence itſelf. Were not this the caſe, we ſhould be expoſed every moment to error, without any poſſibility of being undeceived. It was therefore extremely uſeful and neceſſary to man, that under ſuch circumſtances he ſhould have the uſe and exerciſe of his liberty.

But when we happen to have a clear and diſtinct view of things and their relations, that is, when evidence ſtrikes us, it would be of no manner of ſignification to have the uſe of liberty, in order to ſuſpend our judgment. For certainty being then in its very higheſt degree, what benefit ſhould we reap by a new examen or inquiry, were it in our power? We have no longer occaſion to conſult a guide, when we ſee diſtinctly the end we are tending to, and the road we are to take. It is therefore an advantage to man to be unable to refuſe his aſſent to evidence.

IX. Let us reaſon pretty near in the ſame manner on the uſe of liberty with reſpect to good and evil. Man deſigned for happineſs, ſhould certainly have been formed in ſuch a manner, as to find himſelf under an abſolute neceſſity of deſiring and purſuing good, and of ſhunning on the contrary evil in general. Were the nature of theſe faculties ſuch, as to

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leave him in a ſtate of indifference, ſo as to be at liberty in this reſpect to ſuſpend or alter his deſires, plain it is, that this would be eſteemed a very great imperfection in him; an imperfection that would imply a want of wiſdom in the author of his being, as a thing directly oppoſite to the end he propoſed in giving him life.

No leſs an inconveniency would it be on the other hand, were the neceſſity which man is under of purſuing good and avoiding evil to be ſuch as would inſuperably determine him to act or not to act, in conſequence of the impreſſions made on him by each object. Such is the ſtate of human things, that we are frequently deceived by appearances; it is very rare that good or evil preſents itſelf to us pure and without mixture; but there is almoſt always a favourable and adverſe ſide, an inconveniency mixt with utility. In order to act therefore with ſafety, and not to be miſtaken in our account, it is generally incumbent upon us to ſuſpend our firſt motions, to examine more cloſely into things, to make diſtinctions, calculations, and compenſations; all which require the uſe of liberty. Liberty is therefore, as it were, a ſubſidiary faculty, which ſupplies the deficiencies of the other powers, and whoſe office ceaſeth as ſoon as it has redreſſed them.

Hence let us conclude, that man is provided with all the neceſſary means for attaining to the end for which he is deſigned; and that in this, as in every other reſpect, the Creator has acted with wonderful wiſdom.

X. After what has been ſaid concerning the nature, operations, and uſe of liberty, it may ſeem perhaps unne- The proof of liberty drawn from our inward

ſenſe, is ſuperior to any other.

unneceſſary to attempt here to prove that man is indeed a free agent, and that we are as really inveſted with this as with any other faculty.

Nevertheleſs, as it is an eſſential principle, and one of the fundamental ſupports of our edifice, it is proper to make the reader ſenſible of the indubitable proof with which we are furniſhed by daily experience. Let us therefore conſult only ourſelves. Every one finds that he is maſter, for inſtance, to walk or ſit, to ſpeak, or hold his tongue. Do not we alſo experience continually, that it depends intirely on ourſelves to ſuſpend our judgment, in order to proceed to a new inquiry? Can any one ſeriouſly deny, that in the choice of good and evil our reſolutions are unconſtrained; that, notwithſtanding the firſt impreſſion, we have it in our power to ſtop of a ſudden, to weigh the arguments on both ſides, and to do, in ſhort, whatever can be expected from the freeſt agent? Were I invincibly drawn towards one particular good rather than another, I ſhould feel then the ſame impreſſion as that which inclines me to good in general, that is, an impreſſion that would neceſſarily drag me along, an impreſſion which there would be no poſſibility of reſiſting. Now experience makes me feel no ſuch violence with reſpect to any particular good. I find I can abſtain from it; I can defer uſing it; I can prefer ſomething elſe to it; I can heſitate in my choice; in ſhort, I am my own maſter to chuſe, or, which is the ſame thing, I am *free*.

Should we be aſked, how comes it, that not being free in reſpect to good in general, yet we are at liberty with regard to particular goods? My anſwer is, that the natural deſire of happineſs does not in-

ſuperably draw us towards any particular good, becauſe no particular good includes that happineſs for which we have a neceſſary inclination.

Senſible proofs, like theſe, are ſuperior to all objection, and productive of the moſt inward conviction, by reaſon it is impoſſible, that when the ſoul is modified after a certain manner, it ſhould not feel this modification, and the ſtate which conſequently attends it. What other certainty have we of our exiſtence? And how is it we know that we think, we act, but by our inward ſenſe?

This ſenſe of liberty is ſo much the leſs equivocal, as it is not momentary or tranſient: It is a ſenſe that never leaves us, and of which we have a daily and continual experience.

Thus we ſee there is nothing better eſtabliſhed in life, than the ſtrong perſuaſion which all mankind have of liberty. Let us conſider the ſyſtem of humanity, either in general or particular, we ſhall find that the whole is built upon this principle. Reflections, deliberations, reſearches, actions, judgments; all ſuppoſe the uſe of liberty. Hence the ideas of good and evil, of vice and virtue: hence, as a natural conſequence, ariſes praiſe or blame, the cenſure or approbation of our own, or other people's conduct. The ſame may be ſaid of the affections and natural ſentiments of men towards one another, as friendſhip, benevolence, gratitude, hatred, anger, complaints, and reproaches: none of theſe ſentiments could take place, unleſs we were to admit of liberty. In fine, as this prerogative is in ſome meaſure the key of the human ſyſtem, he that does not allow it to man, ſubverts all order, and introduces a general confuſion.

XI. It

How comes it that liberty has been conteſted.

XI. It is natural here to inquire, how it was ever poſſible for any body ſeriouſly to doubt, whether man is maſter of his actions, whether he is free? I ſhould be leſs ſurprized at this doubt, were it concerning a ſtrange or remote fact, a fact that was not tranſacted within ourſelves. But the queſtion is in regard to a thing, of which we have an internal immediate feeling, a conſtant and daily experience. Strange, that any one ſhould call in queſtion a faculty of the ſoul! May not we as well doubt of the underſtanding and will, as of the liberty of man? For if we are content to abide by our inward ſenſe, there is no more room to diſpute of one than of the other. But ſome too ſubtle philoſophers, by conſidering this ſubject in a metaphyſical light, have ſtript it, as it were, of its nature; and finding themſelves at a loſs to ſolve a few difficulties, they have given a greater attention to theſe difficulties than to the poſitive proofs of the thing; which inſenſibly led them to imagine that the notion of liberty was all an illuſion. I own it is neceſſary, in the reſearch of truth, to conſider an object on every ſide, and to balance equally the arguments for and againſt; nevertheleſs we muſt take care we do not give to thoſe objections more than their real weight. We are informed by experience, that in ſeveral things which in reſpect to us are inveſted with the higheſt degree of certainty, there are many difficulties notwithſtanding, which we are incapable of reſolving to our ſatisfaction: and this is a natural conſequence of the limits of the mind. Let us conclude therefore from hence, that when a truth is ſufficiently evinced by ſolid reaſons, whatever can be objected againſt it, ought not to ſtagger

ſtagger or weaken our conviction, as long as they are ſuch diffiulties only as embarraſs or puzzle the mind, without invalidating the proofs themſelves. This rule is ſo very uſeful in the ſtudy of the ſciences, that one ſhould keep it always in ſight *. Let us reſume now the thread of our reflections.

Actions are voluntary, andinvoluntary; free, neceſſary, and conſtrained.

XII. The denomination of voluntary or human actions in general is given to all thoſe that depend on the will; and that of free, to ſuch as come within the juriſdiction of liberty, which the ſoul can ſuſpend or turn as it pleaſes. The oppoſite of voluntary is involuntary; and the contrary of free is neceſſary, or whatever is done by force or conſtraint. All human actions are voluntary, inaſmuch as there are none but what proceed from ourſelves, and of which we are the authors. But if violence, uſed by an external force, which we are incapable to reſiſt, hinders us from acting, or makes us act without the conſent of our will; as when a perſon ſtronger than ourſelves lays hold of our arm to ſtrike or wound another perſon, the action reſulting from thence being involuntary, is not, properly ſpeaking, our deed or action, but that of the agent from whom we ſuffer this violence.

* *There is a wide difference between ſeeing that a thing is abſurd, and not knowing all that regards it; between an unanſwerable queſtion in relation to a truth, and an unanſwerable objection againſt it; though a great many confound theſe two ſorts of difficulties. Thoſe only of the latter order are able to prove, that what was taken for a known truth cannot be true, becauſe otherwiſe ſome abſurdity muſt enſue. But the others prove nothing but the ignorance we are under in relation to ſeveral things that regard a known truth.* Biblioth. Raiſon. Tom. 7. p. 346.

The

The ſame cannot be ſaid of actions that are forced and conſtrained, only as we are determined to commit them, through fear of a great and imminent evil with which we are menaced: As for inſtance, were an unjuſt and cruel prince to oblige a judge to condemn an innocent perſon, by menacing to put him to death if he did not obey his orders. Actions of this ſort, though forced in ſome ſenſe, becauſe we commit them with reluctancy, and would never conſent to them were it not for a very preſſing neceſſity; ſuch actions, I ſay, are ranked nevertheleſs among the number of voluntary actions, becauſe, after all, they are produced by a deliberation of the will, which chuſes between two inevitable evils, and determines to prefer the leaſt to the greateſt. This will become more intelligible by a few examples.

A perſon gives alms to a poor man, who expoſes his wants and miſery to him; this action is at the ſame time both voluntary and free. But ſuppoſe a man that travels alone and unarmed, falls into the hands of robbers, and that theſe miſcreants menace him with inſtant death, unleſs he gives them all he has; the ſurrender which this traveller makes of his money in order to ſave his life, is indeed a voluntary action, but conſtrained at the ſame time, and void of liberty. For which reaſon there are ſome that diſtinguiſh theſe actions by the name of mixt *, as partaking of the voluntary and involuntary. They are voluntary, by reaſon the principle that produces them is in the agent itſelf, and the will determines to commit them as the leaſt of two evils: but they

* See Puffendorf on the law of nature and nations, book i. chap. iv. § 9.

partake

partake of the involuntary, becauſe the will executes them contrary to its inclination, which it would never do, could it find any other expedient to clear itſelf of the dilemma.

Another neceſſary elucidation is, that we are to ſuppoſe that the evil with which we are menaced is conſiderable enough to make a reaſonable impreſſion upon a prudent or wiſe man, ſo far as to intimidate him; and beſides that, the perſon who compels us has no right to reſtrain our liberty; inſomuch that we do not lie under an obligation of bearing with any hardſhip or inconveniency, rather than diſpleaſe him. Under theſe circumſtances, reaſon would have us determine to ſuffer the leſſer evil, ſuppoſing at leaſt that they are both inevitable. This kind of conſtraint lays us under what is called a moral neceſſity; whereas, when we are abſolutely compelled to act, without being able, in any ſhape whatſoever, to avoid it, this is termed a phyſical neceſſity.

It is therefore a neceſſary point of philoſophical exactneſs to diſtinguiſh between voluntary and free. In fact, it is eaſy to comprehend, by what has been now ſaid, that all free actions are indeed voluntary, but all voluntary actions are not free. Nevertheleſs, the common and vulgar way of ſpeaking frequently confounds thoſe two terms, of which we ought to take particular notice, in order to avoid all ambiguity.

We give likewiſe the name of manners ſometimes to free actions, inaſmuch as the mind conſiders them as ſuſceptible of rule. Hence we call morality the art which teaches the rules of conduct, and the method of conforming our actions to thoſe rules.

XIII. We

Our faculties help one another reciprocally.

XIII. We ſhall finiſh what relates to the faculties of the ſoul by ſome remarks, which will help us to underſtand better their nature and uſe.

1. Our faculties aſſiſt one another in their operations, and when they are all united in the ſame ſubject, they act always jointly. We have already obſerved that the will ſuppoſes the underſtanding, and that the light of reaſon ſerves for a guide to liberty. Thus the underſtanding, the will, and liberty; the ſenſes, the imagination, and memory; the inſtincts, inclinations, and paſſions; are like ſo many different ſprings, which concur all to produce a particular effect; and it is by this united concurrence we attain at length to the knowledge of truth, and the poſſeſſion of ſolid good, on which our perfection and happineſs depends.

Of reaſon and virtue.

XIV. 2. But in order to procure to ourſelves thoſe advantages, it is not only neceſſary that our faculties be well conſtituted in themſelves, but moreover we ought to make a good uſe of them, and maintain the natural ſubordination there is between them, and the different motions which lead us towards, or divert us from, certain objects. It is not therefore ſufficient to know the common and natural ſtate of our faculties, we ſhould likewiſe be acquainted with their ſtate of perfection, and know in what their real uſe conſiſts. Now truth being, as we have ſeen, the proper object of the underſtanding, the perfection of this faculty is to have a diſtinct knowledge of truth; at leaſt of thoſe important truths, which concern our duty and happi-

neſs. For ſuch a purpoſe, this faculty ſhould be formed to a cloſe attention, a juſt diſcernment, and ſolid reaſoning. The underſtanding thus perfected, and conſidered as having actually the principles which enable us to know and to diſtinguiſh the true and the uſeful, is what is properly called reaſon; and hence it is that we are apt to ſpeak of reaſon as of a light of the mind, and as of a rule by which we ought always to be directed in our judgments and actions.

If we conſider in like manner the will in its ſtate of perfection, we ſhall find it conſiſts in the force and habit of determining always right, that is, not to deſire any thing but what reaſon dictates, and not to make uſe of our liberty but in order to chuſe the beſt. This ſage direction of the will is properly called Virtue, and ſometimes goes by the name of Reaſon. And as the perfection of the ſoul depends on the mutual ſuccours which the faculties, conſidered in their moſt perfect ſtate, lend to one another; we underſtand likewiſe ſometimes by reaſon, taken in a more vague, and more extenſive ſenſe, the ſoul itſelf, conſidered with all its faculties, and as making actually a good uſe of them. Thus the term *reaſon* carries with it always an idea of perfection, which is ſometimes applied to the ſoul in general, and at other times to ſome of the faculties in particular.

XV. 3. The faculties, of which we are treating, are common to all mankind; but they are not found always in the ſame degree, neither are they determined after the ſame manner. Beſides, they have their periods in every man; that is, their increaſe,

Cauſes of the diverſity we obſerve in the conduct of men.

increaſe, perfection, infeebling, and decay, in the ſame manner almoſt as the organs of the body. They vary likewiſe exceedingly in different men: one has a brighter underſtanding; another a quicker ſenſation; this man has a ſtrong imagination; while another is ſwayed by violent paſſions. And all this is combined and diverſified an infinite number of ways, according to the difference of temperaments, education, examples, and occaſions that furniſh an opportunity for exerciſing certain faculties or inclinations rather than others: for it is the exerciſe that ſtrengthens them more or leſs. Such is the ſource of that prodigious variety of geniuſes, taſtes, and habits, which conſtitutes what we call the characters and manners of men; a variety which, conſidered in general, very far from being unſerviceable, is of great uſe in the views of providence.

Reaſon has it always in her power to remain miſtreſs.

XVI. But whatever ſtrength may be attributed to the inclinations, paſſions, and habits, ſtill it is neceſſary to obſerve, that they have never enough to impel man invincibly to act contrary to reaſon. Reaſon has it always in her power to preſerve her ſuperiority and rights. She is able, with care and application, to correct vicious diſpoſitions, to prevent and even to extirpate bad habits; to bridle the moſt unruly paſſions by ſage precautions, to weaken them by degrees, and finally to deſtroy them intirely, or to reduce them within their proper bounds. This is ſufficiently proved by the inward feeling, that every man has of the liberty with which he determines to follow this ſort of impreſſions; proved by the ſecret reproaches we make to ourſelves, when we

we have been too much ſwayed by them; proved, in fine, by an infinite variety of examples. True it is, that there is ſome difficulty in ſurmounting theſe obſtacles; but this is richly compenſated by the glory attending ſo noble a victory, and by the ſolid advantages from thence ariſing.

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## CHAP. III.

*That man thus conſtituted, is a creature capable of moral direction, and accountable for his actions.*

Man is capable of direction in regard to his conduct.

I. AFTER having ſeen the nature of man, conſidered in reſpect to right, the reſult is, that he is a creature really ſuſceptible of choice and direction in his conduct. For ſince he is capable, by means of his faculties, of knowing the nature and ſtate of things, and of judging from this knowledge; ſince he is inveſted with the power of determining between two or ſeveral offers made to him; in fine, ſince, with the aſſiſtance of liberty, he is able, in certain caſes, to ſuſpend or continue his actions, as he judges proper; it evidently follows, that he is maſter of his own actions, and that he exerciſes a kind of authority and command over them, by virtue of which he can direct and turn them which way he pleaſes. Hence it appears how neceſſary it was for us to ſet out, as we have done, with inquiring previouſly into the nature and faculties of man. For how could we have

diſcovered the rules by which he is to ſquare his conduct, unleſs we antecedently know in what manner he acts, and what are the ſprings, as it were, that put him in motion?

He is accountable for his actions: they can be imputed to him.

II. Another remark, which is a conſequence of the foregoing, is, that ſince man is the immediate author of his actions, he is accountable for them; and in juſtice and reaſon they can be imputed to him. This is a point of which we think it neceſſary to give here a ſhort explication.

The term of *imputing* is borrowed of arithmetic, and ſignifies properly, to ſet a ſum down to ſomebody's account. To impute an action therefore to a perſon, is to attribute it to him as to its real author, to ſet it down, as it were, to his account, and to make him anſwerable for it. Now it is evidently an eſſential quality of human actions, as produced and directed by the underſtanding and will, to be ſuſceptible of imputation; that is, it is plain that man can be juſtly conſidered as the author and productive cauſe of thoſe actions, and that for this very reaſon it is right to make him accountable for them, and to lay to his charge the effects that ariſe from thence as natural conſequences. In fact, the true reaſon why a perſon cannot complain of being made anſwerable for an action, is that he has produced it himſelf knowingly and willingly. Every thing almoſt that is ſaid and done in human ſociety, ſuppoſes this principle generally received, and every body acquieſces in it from an inward conviction.

III. We

III. We muſt therefore lay down, as an inconteſtable and fundamental principle of the imputability of human actions, that every voluntary action is ſuſceptible of imputation; or, to expreſs the ſame thing in other terms, that every action or omiſſion ſubject to the direction of man, can be charged to the account of the perſon in whoſe power it was to do it or let it alone; and on the contrary, every action, whoſe exiſtence or non-exiſtence does not depend on our will, cannot be imputed to us. Obſerve here, that omiſſions are ranked by civilians and moraliſts among the number of actions; becauſe they apprehend them as the effect of a voluntary ſuſpenſion of the exerciſe of our faculties.

Principle of imputability. We muſt not confound it with imputation.

Such is the foundation of imputability, and the true reaſon why an action or omiſſion is of an imputable nature. But we muſt take particular notice, that though an action is imputable, it does not enſue from thence only, that it merits actually to be imputed. Imputability and imputation are two things, which we ſhould carefully diſtinguiſh. The latter ſuppoſes, beſides the imputability, ſome moral neceſſity of acting or not, after a certain manner; or, which amounts to the ſame, ſome obligation that requires a thing to be done or omitted that can be really done or omitted.

Puffendorf * does not ſeem to have ſufficiently diſtinguiſhed between theſe two ideas. It is enough for our preſent purpoſe to point out the diſtinction,

* See the Law of nature and nations, book i. chap. v. § 5. and the Duties of man and a citizen, book i. §. 17.

deferring to treat of actual imputation, and to eſtabliſh the principles thereof, till we have explained the nature of obligation, and ſhewn that man is actually obliged to conform his actions to rule.

What has been hitherto advanced, properly regards the nature of the human mind; or the internal faculties of man, as they render him capable of moral direction. But in order to complete our knowledge of human nature, we ſhould view it likewiſe in its extrinſic condition, in its wants and dependancies, and in the various relations wherein it is placed; in fine, in what we may call the different ſtates of man. For it is our ſituation in life that decides the uſe we ought to make of our faculties.

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## CHAP. IV.

### *Further inquiry into what relates to human nature, by conſidering the different ſtates of man.*

Definition. Diviſion.

I. THE different ſtates of man are nothing more than the ſituation wherein he finds himſelf in regard to the beings that ſurround him, with the relations from thence reſulting.

We ſhall be ſatisfied with taking here a curſory view of ſome of the principal ſtates, and to render them diſtinguiſhable by their eſſential characteriſtics, without entering into an exact inquiry, which ſhould naturally take place, when treating in particular of each ſtate.

All

All theſe different ſtates may be ranged under two general claſſes: ſome are primitive and original; others adventitious.

II. Primitive and original ſtates are thoſe in which man finds himſelf placed by the very hand of God, independent of any human action. Primitive and original ſtates.

Such is, in the firſt place, the ſtate of man with regard to God; which is a ſtate of abſolute dependance. For let us make but never ſo ſmall a uſe of our faculties, and enter into the ſtudy of ourſelves, it will evidentally appear, that it is from this firſt Being we hold our life, reaſon, and all other concomitant advantages; and that in this and every other reſpect we experience daily, in the moſt ſenſible manner, the effects of the power and goodneſs of the Creator. 1. State of man with regard to God.

III. Another primitive and original ſtate, is that wherein men find themſelves in reſpect to one another. They are all inhabitants of the ſame globe, placed in a kind of vicinity to each other; have all one common nature, the ſame faculties, ſame inclinations, wants and deſires. They cannot do without one another; and it is only by mutual aſſiſtance they are capable of attaining to a ſtate of eaſe and tranquillity. Hence we obſerve a natural inclination in mankind that draws them towards each other, and eſtabliſhes a commerce of ſervices and benevolence between them, from whence reſults the common good of the whole, and the particular advantage of individuals. The natural ſtate therefore of men among themſelves, is a ſtate of union and ſociety; ſociety being nothing more than the union 2. State of ſociety.

of ſeveral perſons for their common advantage. Beſides, it is evident that this muſt be a primitive ſtate, becauſe it is not the work of man, but eſtabliſhed by divine inſtitution. Natural ſociety is a ſtate of equality and liberty; a ſtate in which all men enjoy the ſame prerogatives, and an intire independance on any other power but God. For every man is naturally maſter of himſelf, and equally to his fellow-creatures, ſo long as he does not ſubject himſelf to another perſon's authority by a particular convention.

3. State of ſolitude.
4. Peace; War.

IV. The oppoſite ſtate to that of ſociety, is ſolitude; that is, the condition in which we imagine man would find himſelf, were he to live abſolutely alone, abandoned to his own thoughts, and deſtitute of all commerce with thoſe of his own ſpecies. Let us ſuppoſe a man arrived to the age of maturity, without having had the advantage of education or any correſpondence at all with the reſt of mankind, and conſequently without any other knowledge but that which he has of himſelf acquired; ſuch a man would be undoubtedly the moſt miſerable of all animals. We ſhould diſcover nothing in him but weakneſs, ſavageneſs, and ignorance; ſcarce would he be able to ſatisfy the wants of his body, expoſed, poor wretch, to periſh with hunger or cold, or by the ravenous teeth of wild beaſts. What a vaſt difference between ſuch a ſtate and that of ſociety, which by the mutual ſuccours that men receive from one another, procures them all the knowledge, conveniency, and eaſe, that form the ſecurity, pleaſure, and happineſs of life? True it is, that all theſe advantages ſuppoſe that men, far from prejudicing one another,

another, live in harmony and concord, and entertain, this union by mutual good offices. This is what we call a ſtate of *peace*, whereas thoſe who endeavour to do harm, and thoſe alſo who find themſelves obliged to guard againſt it, are in a ſtate of war; a ſtate of violence, diametrically oppoſite to that of ſociety.

State of man with regard to the goods of the earth.

V. Let us obſerve, in the next place, that man finds himſelf naturally attached to the earth, from whoſe boſom he draws whatever is neceſſary for the preſervation and conveniences of life. This ſituation produces another primitive ſtate of man, which is likewiſe deſerving of our attention.

Such in effect is the natural conſtitution of the human body, that it cannot ſubſiſt intirely of itſelf, and by the ſole force of its temperament. Man, at all ages, ſtands in need of ſeveral external ſuccours for his nouriſhment, as well as for repairing his ſtrength, and keeping his faculties in proper order. For this reaſon our Creator has ſown plentifully around us ſuch things as are neceſſary for our wants, and has implanted in us at the ſame time the inſtincts and qualifications proper for applying theſe things to our advantage. The natural ſtate therefore of man conſidered in this light, and in reſpect to the goods of the earth, is a ſtate of indigence and inçeſſant wants, againſt which he would be incapable to provide in a ſuitable manner, were he not to exerciſe his induſtry by conſtant labour. Such are the principal of thoſe ſtates that are called primitive and original.

Adventitious ſtates. 1. Family. 2. Marriage.

VI. But man being naturally a free agent, he is capable of making great modifications in his primitive ſtate, and of giving by a variety of eſtabliſhments a new face to human life. Hence thoſe adventitious ſtates are formed, which are properly the work of man, wherein he finds himſelf placed by his own act, and in conſequence of eſtabliſhments, whereof he himſelf is the author. Let us take a curſory view of the principal of theſe ſtates.

The firſt that preſents itſelf to us, is the ſtate of families. This is the moſt natural and moſt ancient of all ſocieties, and the very foundation of that which is called national; for a people or nation is only an aſſemblage or compoſition of ſeveral families.

Families begin by marriage; and it is nature itſelf that invites men to this union. Hence children ariſe, who by perpetuating the ſeveral families, prevent the extinction of human ſocieties, and repair the breaches made every day by death.

The family ſtate is productive of various relations; as thoſe of huſband, wife, father, mother, children, brothers, ſiſters, and all the other degrees of kindred, which are the firſt tie of human ſociety.

3. Weakneſs of man at his birth. 4. Natural dependance of children on their parents.

VII. Man conſidered in his birth is weakneſs and impotency itſelf, in regard as well to the body, as to the ſoul. It is even remarkable, that the ſtate of weakneſs and infancy laſts longer in man than in any other animal. He is beſet and preſſed on all ſides by a thouſand wants, and deſtitute of knowledge, as well as ſtrength, finds himſelf in an abſolute incapacity of relieving them: he is therefore under a particular

ticular neceſſity of recurring to external aſſiſtance: Providence for this reaſon has inſpired parents with that inſtinct or natural tenderneſs, which prompts them ſo eagerly to delight in the moſt troubleſome cares, for the preſervation and good of thoſe whom they have brought into the world. It is likewiſe in conſequence of this ſtate of weakneſs and ignorance in which children are born, that they are naturally ſubject to their parents; whom nature has inveſted with all the authority and power neceſſary for governing thoſe, whoſe advantage they are to ſtudy and procure.

The ſtate of property.

VIII. The property of goods is another very important eſtabliſhment, which produces a new adventitious ſtate. It modifies the right which all men had originally to earthly goods; and diſtinguiſhing carefully what belongs to individuals, enſures the quiet and peaceable enjoyment of what they poſſeſs; by which means it contributes to the maintenance of peace and harmony among mankind. But ſince all men had originally a right to a common uſe of whatever the earth produces for their ſeveral wants; it is evident therefore, that if this natural power is actually reſtrained and limited in divers reſpects, this muſt neceſſarily ariſe from ſome human act; and conſequently the ſtate of property, which is the cauſe of thoſe limitations, ought to be ranked among the adventitious ſtates.

Civil ſtate and government.

IX. But among all the ſtates eſtabliſhed by the act of man, there is none more conſiderable than the civil ſtate, or that of civil ſociety and government. The eſſential

eſſential character of this ſociety, which diſtinguiſhes it from the forementioned ſociety of *nature*, is the ſubordination to a ſupreme authority, excluſive of equality and independance. Mankind were originally divided into families only, and not into nations. Thoſe families lived under the paternal government of the perſon who was their chief, as their father or grandfather. But when they came afterwards to increaſe and unite for their common defence, they compoſed a national body, governed by the will of him, or of thoſe on whom they had conferred the authority. This is the origin of what we call civil government, and of the diſtinction of ſovereign and ſubjects.

The civil ſtate and property of goods give riſe to ſeveral other adventitious ſtates.

X. The civil ſtate and property of goods produced ſeveral other eſtabliſhments, which form the beauty and ornament of ſociety, and from whence ſo many adventitious ſtates ariſe: ſuch as the different poſts or offices of thoſe who have any ſhare in the government; as magiſtrates, judges, ſtate-officers, miniſters of religion, phyſicians, &c. To which may be added the polite arts, trades, agriculture, navigation, commerce, with their ſeveral dependancies, whereby human life is ſo agreeably and advantageouſly diverſified.

True idea of the natural ſtate of man.

XI. Such are the principal ſtates produced by human conſent. And yet, as theſe different modifications of the primitive ſtate of man are the effect of his natural liberty, the new relations and different ſtates from thence ariſing, may be very well conſidered as ſo many natural ſtates; provided however that the uſe which men make of their liberty, in this reſpect,

ſpect, has nothing in it unconformable to their natural conſtitution, that is, to reaſon and the ſtate of ſociety.

It is therefore proper to obſerve, in relation to this ſubject, that when we ſpeak of the natural ſtate of man, we are to underſtand not only that natural and primitive ſtate, in which he is placed, as it were, by the hands of nature herſelf; but moreover all thoſe into which man enters by his own act and agreement, and that are conformable in the main to his nature, and contain nothing but what is agreeable to his conſtitution and the end for which he was formed. For ſince man himſelf, as a free and intelligent being, is able to ſee and know his ſituation, as alſo to diſcover his ultimate end, and in conſequence thereof to take the right meaſures to attain it; it is properly in this light we ſhould conſider his natural ſtate, to form thereof a juſt idea. That is, the natural ſtate of man is, generally ſpeaking, that which is conformable to his nature, conſtitution, and reaſon, as well as to the good uſe of his faculties, conſidered in their full maturity and perfection. We ſhall be particularly attentive to this remark, the importance of which will appear more ſenſibly by the application and uſe that may be made thereof on ſeveral occaſions.

Difference between original and adventitious ſtates.

XII. Let us not forget to obſerve likewiſe, that there is this difference between the primitive and adventitious ſtates, that the former being annexed, as it were, to the nature and conſtitution of man, ſuch as he has received them from God, are, for this very reaſon, common to all mankind. The ſame cannot be ſaid of the adventitious ſtates; which, ſuppoſing an human

man act or agreement, cannot of themſelves be indifferently ſuitable to all men, but to thoſe only that contrived and procured them.

Let us add, in fine, that ſeveral of thoſe ſtates may be found combined and united in the ſame perſon, provided they have nothing incompatible in their nature. Thus the ſame perſon may be father of a family, judge, miniſter of ſtate, &c. all at the ſame time.

Such are the ideas we are to form of the nature and different ſtates of man; and it is of all theſe parts united and compacted together, that the intire ſyſtem of humanity is formed. Theſe are like ſo many wheels of the ſame machine, which, combined and managed by a dexterous hand, conſpire all to the ſame end; and, on the contrary, unſkilfully directed, embarraſs and deſtroy each other. But how man, in fine, is enabled to conduct himſelf in this prudent manner, and what rule he is to obſerve in order to attain this happy end, is what we have ſtill to inquire, and forms the ſubject of the following chapters.

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## CHAP. V.

*That man ought to ſquare his conduct by rule; the method of finding out this rule; and the foundations of right in general.*

Definition of a rule.

I. LET us begin with an explication of the terms. A rule, in its proper ſignification, is an inſtrument, by means of which we draw the ſhorteſt

line from one point to another, which for this very reaſon is called a ſtraight line.

In a figurative and moral ſenſe, a rule imports nothing elſe, but a principle, or maxim, which furniſhes man with a ſure and conciſe method of attaining to the end he propoſes.

It is not convenient that man ſhould live without a rule.

II. The firſt thing we are to inquire in regard to this ſubject * is, whether it is really agreeable to the nature of man to ſubmit his actions to a fixt and invariable rule; or whether, on the contrary, he is allowed to abandon himſelf indifferently to all the motions of his will, and thus to enjoy, without either limit or impediment, the extreme facility with which this faculty turns itſelf on all ſides, in conſequence of its natural flexibility.

The reflections we have given in the preceding chapters, are of themſelves, and independent of any other argument, a ſufficient and convincing proof, that the nature and conſtitution of man requires the eſtabliſhment of ſome rule. Every thing in nature has its deſtination and end; and conſequently, each creature is conducted to its end by a proper principle of direction. Man, who holds a conſiderable rank among the beings that ſurround him, participates undoubtedly of this fixt and univerſal order. And whether we conſider him in himſelf as an intelligent and rational being; or view him as a member of ſociety; or whether, in fine, we regard him as the handy-work of God, and deriving from this firſt Being his faculties, ſtate, and exiſtence; all theſe circumſtances

* See Puffendorf, Law of nature and nations, book ii. chap. i.

evidently

evidently indicate an end, a deſtination, and conſequently imply the neceſſity of a rule. Had man been created to live at random without any fixt and determinate view, without knowing whither he is to direct his courſe, or what road he ought to take; it is evident that his nobleſt faculties would be of no manner of uſe to him. Wherefore waving all diſquiſitions concerning the neceſſity of a rule, let us endeavour rather to diſcover what this rule is, which alone, by enlightening the underſtanding, and directing our actions to an end worthy of him, is capable of forming the order and beauty of human life.

A rule ſuppoſes an end, an aim.

III. When we ſpeak of a rule in relation to human actions, two things are manifeſtly ſuppoſed: the firſt, that human conduct is ſuſceptible of direction, as we have already proved; the ſecond, that man in all his ſteps and actions propoſes to himſelf a ſcope or end which he is deſirous to attain.

The ultimate end of man is happineſs.

IV. Now let man reflect but never ſo little on himſelf, he will ſoon perceive that every thing he does is with a view of happineſs, and that this is the ultimate end he propoſes in all his actions, or the laſt term to which he reduces them. This is a firſt truth, of which we have a continual conviction from our own internal ſenſe. Such, in effect, is the nature of man, that he neceſſarily loves himſelf, that he ſeeks in every thing and every where his own advantage, and can never be diverted from this purſuit. We naturally deſire, and neceſſarily wiſh for good. This deſire anticipates all our reflections, and is not in our own election; it predominates in us, and becomes the

the primum mobile of all our determinations; our hearts being never inclined towards any particular good, but by the natural impreſſion which determines us to good in general. It is not in our power to change this bent of the will, which the Creator himſelf has implanted in us.

It is the ſyſtem of providence.

V. This ſyſtem of providence extends to all beings endowed with ſenſe and knowledge. Even animals themſelves have a like inſtinct; for they all love themſelves, endeavouring at ſelf-preſervation by all ſorts of means, eagerly purſuing whatever ſeems good or uſeful to them, and turning, on the contrary, from whatever appears prejudicial or bad. The ſame propenſity ſhews itſelf in man, not only as an inſtinct, but moreover as a rational inclination approved and ſtrengthened by reflection. Hence whatſoever preſents itſelf to us as an object proper to promote our happineſs, muſt of neceſſity pleaſe us; and every thing that appears oppoſite to our felicity, becomes of courſe the object of our averſion. The more we ſtudy man, the more we are convinced that here, in reality, lies the ſource of all our taſtes; here the grand ſpring which ſets us in motion.

The deſire of happineſs is eſſential to man, and inſeparable from reaſon.

VI. And indeed, if it be natural to every intelligent and rational being, to act always with a fixt view and determinate end; it is no leſs evident, that this view or end muſt be ultimately reduced to himſelf, and conſequently to his own advantage and happineſs. The deſire therefore of happineſs is as eſſential to a man, and as inſeparable from his nature,

as reaſon itſelf; for reaſon, as the very etymology of the word implies, is nothing more than a calculation and account. To reaſon, is to calculate, and to draw up an account, after balancing every thing, in order to ſee on which ſide the advantage lies. It would therefore imply a contradiction, to ſuppoſe a rational being, that could abſolutely forego its intereſt, or be indifferent with regard to its own felicity.

Self-love is a principle that has nothing vicious in itſelf.

VII. We muſt therefore take care not to conſider ſelf-love, and that ſenſe or inclination which fixes us ſo ſtrongly to our happineſs, as a principle naturally vicious, and the fruit of human depravation. This would be accuſing the author of our exiſtence, and converting his nobleſt gifts into poiſon. Whatever comes from a being ſupremely perfect, is in itſelf good; and were we to condemn the ſenſe or inclination of ſelf-love as bad in itſelf, under a pretence that by a miſconſtruction and wrong uſe thereof it is the ſource of an infinite number of diſorders, we ſhould for the very ſame motives be obliged to condemn reaſon; becauſe it is from the abuſe of this faculty that the groſſeſt errors and moſt extravagant irregularities of men proceed.

It may appear ſurprizing to ſome that we ſhould have ſtopt here, to inveſtigate and explain the truth of a principle, which one would imagine is obvious to every body, to the learned as well as the vulgar. And yet it was abſolutely neceſſary; becauſe this is a truth of the very laſt importance, which gives us the key, as it were, of the human ſyſtem. It is true, that all ethic writers agree that man is made for happineſs, and naturally deſires it (for how is it poſſible

poſſible not to hear the voice of nature, which riſes from the very bottom of the heart?) But a great many, after acknowledging this principle, ſeem to loſe ſight of it, and not attending to the conſequences that flow from thence, they erect their ſyſtems on different, and ſometimes quite oppoſite foundations.

Man cannot attain to happineſs but by the help of reaſon.

VIII. But if it be true that man does nothing but with a view of happineſs, it is no leſs certain that reaſon is the only way he has to attain it.

In order to eſtabliſh this ſecond propoſition or truth, we have only to attend to the very idea of happineſs, and to the notion we have of good and evil. Happineſs is that internal ſatisfaction of the ſoul which ariſes from the poſſeſſion of good; good is whatever is agreeable to man for his preſervation, perfection, entertainment, and pleaſure. Evil is the oppoſite of good.

Man inceſſantly experiences, that there are ſome things convenient, and others inconvenient to him; that the former are not all equally convenient, but ſome more than others; in fine, that this conveniency depends, for the moſt part, on the uſe he knows how to make of things, and that the ſame thing which may ſuit him, uſing it after a certain manner and meaſure, becomes unſuitable when this uſe exceeds its limits. It is only therefore by inveſtigating the nature of things, as alſo the relations they have between themſelves and with us, that we are capable of diſcovering their fitneſs or diſagreement with our felicity, of diſcerning good from evil, of ranging every thing in its proper order, of ſetting a right

value upon each, and of regulating conſequently our reſearches and deſires.

But is there any other method of acquiring this diſcernment, but by forming juſt ideas of things and their relations, and by deducing from theſe firſt ideas the conſequences that flow from thence by exact and cloſe argumentations? Now it is reaſon alone that directs all theſe operations. Yet this is not all: for as in order to arrive at happineſs, it is not ſufficient to form juſt ideas of the nature and ſtate of things, but it is alſo neceſſary that the will ſhould be directed by thoſe ideas and judgments in the ſeries of our conduct; ſo it is certain, that nothing but reaſon can communicate and ſupport in man the neceſſary ſtrength for making a right uſe of liberty, and for determining in all caſes according to the light of his underſtanding, in ſpite of all the impreſſions and motions that may lead him to a contrary purſuit.

Reaſon is therefore the primitive rule of man.

IX. Reaſon is therefore the only means, in every reſpect, that man has left to attain to happineſs, and the principal end for which he has received it. All the faculties of the ſoul, its inſtincts, inclinations, and even the paſſions, are relative to this end; and conſequently it is this ſame reaſon that is capable of pointing out the true rule of human actions, or, if you will, ſhe herſelf is this primitive rule. In fact, were it not for this faithful guide, man would lead a random life, ignorant even of what regards himſelf, unacquainted with his own origin and deſtination, and with the uſe he ought to make of whatever ſurrounds him; ſtumbling, like a blind man, at every

ſtep;

ſtep; loſt, in fine, and bewildered in an inextricable labyrinth.

X. Thus we are conducted naturally to the firſt idea of the word *Right*, which in its moſt general ſenſe, and that to which all the particular ſignifications bear ſome relation, is nothing elſe but whatever reaſon certainly acknowledges as a ſure and conciſe means of attaining happineſs, and approves as ſuch. What is Right in general?

This definition is the reſult of the principles hitherto eſtabliſhed. In order to be convinced of its exactneſs, we have only to draw theſe principles together, and unite them under one proſpect. In fact, ſince right *(droit)* in its primary notion ſignifies whatever directs, or is well directed; ſince direction ſuppoſes a ſcope and an end, to which we are deſirous of attaining; ſince the ultimate end of man is happineſs; and, in fine, ſince he cannot attain to happineſs but by the help of reaſon; does it not evidently follow, that Right in general is whatever reaſon approves as a ſure and conciſe means of acquiring happineſs? It is likewiſe in conſequence of theſe principles, that reaſon giving its approbation to itſelf, when it happens to be properly cultivated, and arrived to that ſtate of perfection in which it knows how to uſe all its diſcernment, bears, by way of preference or excellence, the appellation of right reaſon, as being the firſt and ſureſt means of direction, whereby man is enabled to acquire felicity.

That we may not forget any thing in the analyſis of theſe firſt ideas, it is proper to obſerve here, that the Latins expreſs what we call *Right* by the

word *jus*, which properly ſignifies an order or precept*. Theſe different denominations undoubtedly proceed from this, that reaſon ſeems to command with authority whatever it avows to be a right and ſure means of promoting our felicity. And as we have only to ſeek for what is right, in order to know what reaſon commands us, hence the natural connexion of theſe two ideas aroſe in reſpect to the rules of right reaſon. In a word, of two ideas naturally connected, the Latins have followed one, and we the other.

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## CHAP. VI.

### *General rules of conduct preſcribed by reaſon. Of the nature and firſt foundations of obligation.*

Reaſon gives us ſeveral rules of conduct.

I. IT is already a great point gained, to have diſcovered the primitive rule of human actions, and to know this faithful guide, which is to direct the ſteps of man, and whoſe directions and counſels he may follow with an entire confidence. But let us not ſtop here; and ſince experience informs us that we are frequently miſtaken in our judgments concerning good and evil, and that theſe erroneous judgments throw us into moſt dangerous irregularities, let us conſult therefore our

* *Jus a jubendo: Jura* enim veteres *Juſa* vel *Juſſa* vocabant. Feſtus: *Juſa, Jura.*

guide,

guide, and learn which are the characters of real good and evil, in order to know in what true felicity conſiſts, and what road we are to take in order to attain it.

II. Though the general notion of good and evil be fixed in itſelf, and invariable, ſtill there are various ſorts of particular goods and evils, or of things that paſs for ſuch in the minds of men.

Firſt rule. To make a right diſtinction of good and evil.

1. The firſt counſel therefore that reaſon gives us, is to examine well into the nature of good and evil, and to obſerve carefully their ſeveral differences, in order to ſet upon each thing its proper value.

This diſtinction is eaſily made. A very ſlight attention to what we continually experience, informs us, that man being compoſed of body and ſoul, there are conſequently two ſorts of goods and evils, ſpiritual and corporeal. The firſt are thoſe that proceed only from our thoughts; the ſecond ariſe from the impreſſions of external objects on our ſenſes. Thus, the ſenſible pleaſure reſulting from the diſcovery of an important truth; or the ſelf-approbation ariſing from a conſciouſneſs of having diſcharged our duty, &c. are goods purely ſpiritual: as the chagrin of a geometrician for being unable to find out a demonſtration; or the remorſe a perſon feels for having committed a bad action, &c. are mere ſpiritual pains. With regard to corporeal goods and evils, they are ſufficiently known; on one ſide, they are health, ſtrength, beauty; on the other, ſickneſs, weakneſs, pain, &c. Theſe two ſorts of goods and evils are intereſting to man, and cannot be reckoned indifferent, by reaſon that man being com-

poſed of body and ſoul, it is plain his perfection and happineſs depend on the good ſtate of theſe two parts.

2. We likewiſe obſerve, that appearances frequently deceive us, and what at firſt ſight carries with it the face of good, proves to be a real evil, whilſt an apparent evil oftentimes conceals an extraordinary good. We ſhould therefore make a diſtinction between real goods and evils, and thoſe that are falſe and apparent. Or, which amounts to pretty near the ſame thing, there is ſometimes a pure good and a pure evil, and ſometimes there is a mixture of both, which does not obſtruct our diſcerning what part it is that prevails, and whether the good or evil be predominant.

3. A third difference regards their duration. In this reſpect goods and evils have not all the ſame nature; ſome are ſolid and durable, others tranſitory and inconſtant. Whereto we may add, that there are goods and evils of which we are maſters, as it were, and which depend in ſuch a manner on ourſelves, that we are able to fix the one, in order to have a conſtant enjoyment of them, and to ſhun or get rid of the others. But they are not all of this kind; ſome goods there are that eſcape our moſt eager purſuits, whilſt ſome evils overtake us, notwithſtanding our moſt ſolicitous efforts to avoid them.

4. There are at preſent goods and evils, which we actually feel; and future goods and evils, which are the objects of our hopes or fears.

5. There are particular goods and evils, which affect only ſome individuals; and others that are

common and univerſal, of which all the members of the ſociety partake. The good of the whole is the real good; that of one of the parts, oppoſite to the good of the whole, is only an apparent good, and conſequently a real evil.

6. From all theſe remarks we may in fine conclude, that goods and evils not being all of the ſame ſpecies, there are conſequently ſome differences amongſt them, and that compared together, we find there are ſome goods more excellent than others, and evils more or leſs incommodious. It happens likewiſe, that a good compared with an evil, may be either equal or greater, or leſſer; from whence ſeveral differences or gradations ariſe, that are worthy of ſpecial notice.

Theſe particulars are ſufficient to ſhew the utility of the principal rule we have given, and how eſſential it is to our happineſs to make a juſt diſtinction of goods and evils. But this is not the only counſel that reaſon gives us, we are going to point out ſome others that are not of leſs importance.

Second rule. True happineſs cannot conſiſt in things that are inconſiſtent with the nature and ſtate of man.

III. 2. True happineſs cannot conſiſt in things that are inconſiſtent with the nature and ſtate of man. This is another principle, which naturally flows from the very notion of good and evil. For whatſoever is inconſiſtent with the nature of a being, tends for this very reaſon to degrade or deſtroy it, to corrupt or alter its conſtitution; which being directly oppoſite to the preſervation, perfection, and good of this being, ſubverts the foundation of its felicity. Wherefore reaſon being the nobleſt part of man, and conſtituting his prin-

cipal eſſence, whatever is inconſiſtent with reaſon, cannot form his happineſs. To which I add, that whatever is incompatible with the ſtate of man, cannot contribute to his felicity; and this is a point as clear as evidence can make it. Every being, that by its conſtitution has eſſential relations to other beings, which it cannot ſhake off, ought not to be conſidered merely as to itſelf, but as conſtituting a part of the whole to which it is related. And it is ſufficiently manifeſt, that it is on its ſituation in regard to the beings that ſurround it, and on the relations of agreement or oppoſition it has with them, that its good or bad ſtate, its happineſs or miſery, muſt in great meaſure depend.

Third rule. To compare the preſent and the future together.

IV. 3. In order to procure for ourſelves a ſolid happineſs, it is not ſufficient to be attentive to the preſent good and evil, we muſt likewiſe examine their natural conſequences; to the end, that comparing the preſent with the future, and balancing one with the other, we muſt know before-hand what may be the natural reſult.

Fourth rule.

4. It is therefore contrary to reaſon, to purſue a good that muſt certainly be attended with a more conſiderable evil *.

Fifth rule.

5. But on the contrary, nothing is more reaſonable than to reſolve to bear with an evil, from whence a greater good muſt certainly ariſe.

The truth and importance of theſe maxims are ſelf-obvious. Good and evil being two oppoſites,

* See the third note of Monſ. Barbeyrac on the duties of man and a citizen, book i. chap. x. § 11.

the effect of one deſtroys that of the other; that is to ſay, the poſſeſſion of a good, attended with a greater evil, renders us really unhappy; and on the contrary, a ſlight evil, which procures us a more conſiderable good, does not hinder us from being happy. Wherefore, every thing well conſidered, the firſt ought to be avoided as a real evil, and the ſecond ſhould be courted as a real good.

The nature of human things requires us to be attentive to theſe principles. Were each of our actions reſtrained in ſuch a manner, and limited within itſelf, as not to be attended with any conſequence, we ſhould not be ſo often miſtaken in our choice, but ſhould be almoſt ſure of graſping the good. But informed as we are by experience, that things have frequently very different effects from what they ſeemed to promiſe, inſomuch that the moſt pleaſing objects are attended with bitter conſequences, and on the contrary a real and ſolid good is purchaſed with labour and pains, prudence does not allow us to fix our whole attention on the preſent. We ſhould extend our views to futurity, and equally weigh and conſider the one and the other, in order to paſs a ſolid judgment on them, a judgment ſufficient to fix properly our reſolutions.

V. 6. For the ſame reaſon, we ought to prefer a greater to a leſſer good; we ought always to aſpire to the nobleſt goods that ſuit us, and proportion our deſires and purſuits to the nature and merit of each good. This rule is ſo evident, that it would be loſing time to pretend to prove it.

Sixth rule. To give the goods that excel moſt, the preference.

VI. 7. It

Seventh rule. In ſome caſes poſſibility only, and by a much ſtronger reaſon probability, ought to determine us.

VI. 7. It is not neceſſary to have an intire certainty in regard to conſiderable goods and evils: Mere poſſibility, and much more ſo, probability, are ſufficient to induce a reaſonable perſon to deprive himſelf of ſome trifling good, and even to ſuffer ſome ſlight evil, with a deſign of acquiring a far greater good, and avoiding a more troubleſome evil.

This rule is a conſequence of the foregoing ones; and we may affirm, that the ordinary conduct of men ſhews they are ſenſibly convinced of the prudence and neceſſity thereof. In effect, what is the aim of all this tumult of buſineſs into which they hurry themſelves? To what end and purpoſe are all the labours they undertake, all the pains and fatigues they endure, all the perils to which they conſtantly expoſe themſelves? Their intent is to acquire ſome advantages which they imagine they do not purchaſe too dear; though theſe advantages are neither preſent, nor ſo certain, as the ſacrifices they muſt make in order to obtain them.

This is a very rational manner of acting. Reaſon requires, that in default of certainty we ſhould take up with probability as the rule of our judgment and determination; for probability in that caſe is the only light and guide we have. And unleſs it is more eligible to wander in uncertainty, than to follow a guide; unleſs we are of opinion that our lamp ought to be extinguiſhed when we are deprived of the light of the ſun; it is reaſonable to be directed by probability, when we are incapable to come at evidence. It is eaſier to attain our aim by the help of

of a faint or glimmering light, than by continuing in darkneſs *.

VII. 8. We ſhould be ſollicitous to acquire a taſte for true goods, inſomuch that goods of an excellent nature, and acknowledged as ſuch, ſhould excite our deſires, and induce us to make all the efforts neceſſary for getting them into our poſſeſſion. Eighth rule. To have a reliſh for true goods.

This laſt rule is a natural conſequence of the others, aſcertaining their execution and effects. It is not ſufficient to have enlightened the mind in reſpect to the nature of theſe goods and evils that are capable of rendering us really happy or unhappy; we ſhould likewiſe give activity and efficacy to theſe principles, by forming the will ſo as to determine itſelf by taſte and habit, purſuant to the counſels of enlightened

* In the ordinary courſe of life, we are generally obliged to be determined by probability, for it is not always in our power to attain to a complete evidence. Seneca the philoſopher has beautifully eſtabliſhed and explained this maxim: "Huic reſpondebimus, nunquam expectare nos certiſſimam rerum comprehenſionem: quoniam in arduo eſt veri exploratio: ſed eâ ire, qua ducit veri ſimilitudo. OMNE HAC VIA PROCEDIT OFFICIUM. Sic ſerimus, ſic navigamus, ſic militamus, ſic uxores ducimus, ſic liberos tollimus; quum omnium horum incertus ſit eventus. Ad ea accedimus, de quibus bene ſperandum eſſe credimus. Quis enim polliceatur ſerenti proventum, naviganti portum, militanti victoriam, marito pudicam uxorem, patri pios liberos? Sequimur quâ ratio, non qua veritas trahit. Exſpecta, ut niſi bene ceſſura non facias, & niſi comperta veritate nihil moveris: relicto omni actu vita conſiſtit. Dum veriſimilia me in hoc aut illud impellant, non verebor beneficium dare ei, quem veriſimile erit gratum eſſe." *De Benefic. lib.* 4. c. 33.

reaſon.

reaſon. And let no one think it impoſſible to change our inclinations, or to reform our taſtes. It is with the taſte of the mind, as with that of the palate. Experience ſhews, that we may alter both, ſo as to find pleaſure at length in things that before were diſagreeable to us. We begin to do a thing with pain, and by an effort of reaſon; afterwards we familiariſe ourſelves to it by degrees; then a frequency of acts renders it eaſier to us, the repugnance ceaſes, we view the thing in a different light from what we did before; and uſe at length makes us love a thing that before was the object of our averſion. Such is the power of habit: it makes us inſenſibly feel ſo much eaſe and ſatisfaction in what we are accuſtomed to, that we find it difficult afterwards to abſtain from it.

Our mind acquieſces naturally in theſe maxims; and they ought to influence our conduct.

VIII. Theſe are the principal counſels we receive from reaſon. They are in ſome meaſure a ſyſtem of maxims, which drawn from the nature of things, and particularly from the nature and ſtate of man, acquaint us with what is eſſentially ſuitable to him, and include the moſt neceſſary rules for his perfection and happineſs.

Theſe general principles are of ſuch a nature, as to force, as it were, our aſſent; inſomuch that a clear and cool underſtanding, diſengaged from the prejudice and tumult of paſſions, cannot help acknowledging their truth and prudence. Every one ſees how uſeful it would be to man to have theſe principles preſent always in his mind, that by the application and uſe of them in particular caſes, they may inſenſibly become the uniform and conſtant rule of his inclinations and conduct.

Maxims,

Maxims, in fact, like these, are not mere speculations: they should naturally influence our morals, and be of service to us in practical life. For to what purpose would it be to listen to the advice of reason, unless we intended to follow it? Of what signification are those rules of conduct, which manifestly appear to us good and useful, if we refuse to conform to them? We ourselves are sensible that this light was given us to regulate our steps and motions. If we deviate from these maxims, we inwardly disapprove and condemn ourselves, as we are apt to condemn any other person in a similar case. But if we happen to conform to these maxims, it is a subject of internal satisfaction, and we commend ourselves, as we commend others who have acted after this manner. These sentiments are so very natural, that it is not in our power to think otherwise. We are forced to respect these principles, as a rule agreeable to our nature, and on which our felicity depends.

Of obligation generally considered.

IX. This agreeableness sufficiently known implies a necessity of squaring our conduct by it. When we mention necessity, it is plain we do not mean a physical but moral necessity, consisting in the impression made on us by some particular motives, which determine us to act after a certain manner, and do not permit us to act rationally the opposite way.

Finding ourselves in these circumstances, we say we are under an obligation of doing or omitting a certain thing; that is, we are determined to it by solid reasons, and engaged by cogent motives, which, like so many ties, draw our will to that side. It is in this sense a person says he is obliged. For whether we

we are determined by popular opinion, or whether we are directed by civilians and ethic writers, we find that the one and the other make obligation properly consiſt in a reaſon, which being well underſtood and approved, determines us abſolutely to act after a certain manner preferable to another. From whence it follows, that the whole force of this obligation depends on the judgment, by which we approve or condemn a particular manner of acting. For to approve, is acknowledging we ought to do a thing; and to condemn, is owning we ought not to do it. Now *ought* and to *be obliged* are ſynonymous terms.

We have already hinted at the natural analogy between the proper and literal ſenſe of the word *obliged*, and the figurative ſignification of this ſame term. Obligation properly denotes a tie; * a man *obliged*, is therefore a perſon who is *tied*. And as a man bound with cords or chains, cannot move or act with liberty, ſo it is very near the ſame caſe with a perſon who is *obliged*; with this difference, that in the firſt caſe, it is an external and phyſical impediment which prevents the effect of one's natural ſtrength; but in the ſecond it is only a moral tie, that is, the ſubjection of liberty is produced by reaſon, which being the primitive rule of man and his faculties, directs and neceſſarily modifies his operations in a manner ſuitable to the end it propoſed.

We may therefore define obligation, conſidered in general and in its firſt origin, a reſtriction of natural liberty, produced by reaſon; inaſmuch as the counſels which reaſon gives us, are ſo many motives, that determine man to act after a certain manner preferable to another.

* *Obligatio* a *ligando*.

X. Such

X. Such is the nature of primitive and original obligation. From thence it follows, that this obligation may be more or leſs ſtrong, more or leſs rigorous; according as the reaſons that eſtabliſh it have more or leſs weight, and conſequently as the motives from thence reſulting have more or leſs impreſſion on the will. For manifeſt it is, that the more theſe motives are cogent and efficacious, the more the neceſſity of conforming our actions to them becomes ſtrong and indiſpenſable.

Obligation may be more or leſs ſtrong.

XI. I am not ignorant, that this explication of the nature and origin of obligation is far from being adopted by all civilians and ethic writers. Some pretend, * *that the natural fitneſs or unfitneſs which we acknowledge in certain actions, is the true and original foundation of all obligation; that virtue has an intrinſic beauty which renders it amiable of itſelf, and that vice on the contrary is attended with an intrinſic deformity, which ought to make us deteſt it, and this antecedent to and independent of the good and evil, of the rewards and puniſhments which may ariſe from the practice of either.*

Dr. Clark's opinion on the nature and origin of obligation.

But this opinion, methinks, can be ſupported no farther than as it is reduced to that which we have juſt now explained. For to ſay that virtue has of itſelf a natural beauty, which renders it worthy of our love, and that vice, on the contrary, merits our averſion; is not this acknowledging, in fact, that we have *reaſon* to prefer one to the other? Now whatever this reaſon be, it certainly can never become

* See Dr. Clark on the evidence of natural and revealed religion.

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a motive capable of determining the will, but inaſmuch as it preſents to us ſome good to acquire, or tends to make us avoid ſome evil; in ſhort, only as it is able to contribute to our ſatisfaction, and to place us in a ſtate of tranquillity and happineſs. Thus it is ordained by the very conſtitution of man, and the nature of human will. For as good, in general, is the object of the will; the only motive capable of ſetting it in motion, or of determining it to one ſide preferable to another, is the hopes of obtaining this good. To abſtract therefore from all intereſt in reſpect to man, is depriving him of all motive of acting, that is, reducing him to a ſtate of inaction and indifference. Beſides, what idea ſhould we be able to form of the agreeableneſs or diſagreeableneſs of human actions, of their beauty or turpitude, of their proportion or irregularity, were not all this referred to man himſelf, and to what his deſtination, his perfection, his welfare, and, in ſhort, his true felicity requires?

Monſieur Barbeyrac's opinion concerning this ſubject.

XII. Moſt civilians are of a different opinion from that of Dr. Clark. "* They eſtabliſh as a principle of "obligation, properly ſo called, the will of a ſuperior being, on whom dependance is acknowledged. They pretend there is nothing but this will, "or the orders of a being of this kind, that can bridle our liberty, or preſcribe particular rules to our "actions. They add, that neither the relations of "proportion nor diſagreement which we acknow-

* See the judgment of an anonymous writer, *&c.* § 15. This is a ſmall work of Mr. Leibnitz, on which Mr. Barbeyrac has made ſome remarks, and which is inſerted in the fifth edition of his tranſlation of the duties of man and a citizen.

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"ledge in the things themſelves, nor the approba-
"tion they receive from reaſon, lay us under an
"indiſpenſible neceſſity of following thoſe ideas, as
"the rules of our conduct. That our reaſon being
"in reality nothing elſe but ourſelves, nobody, pro-
"perly ſpeaking, can lay himſelf under an obliga-
"tion. From whence they conclude, that the max-
"ims of reaſon, conſidered in themſelves, and in-
"dependent of the will of a ſuperior, have nothing
"obligatory in their nature."

This manner of explaining the nature, and laying the foundation of obligation, appears to me inſufficient, becauſe it does not aſcend to the original ſource, and real principles. True it is, that the will of a ſuperior obliges thoſe who are his dependents; yet this will cannot have ſuch an effect, but inaſmuch as it meets with the approbation of our reaſon. For this purpoſe, it is not only neceſſary that the ſuperior's will ſhould contain nothing in itſelf oppoſite to the nature of man; but moreover it ought to be proportioned in ſuch a manner to his conſtitution and ultimate end, that we cannot help acknowledging it as the rule of our actions; inſomuch that there is no neglecting it without falling into a dangerous error; and, on the contrary, the only means of attaining our end is to be directed by it. Otherwiſe, it is inconceivable how man can voluntarily ſubmit to the orders of a ſuperior, or determine willingly to obey him. Own indeed I muſt, that, according to the language of civilians, the idea of a ſuperior who commands, muſt intervene to eſtabliſh an obligation, ſuch as is commonly conſidered. But unleſs we trace things higher, by grounding even the authority of this

ſuperior on the approbation he receives from reaſon, it will produce only an external conſtraint, very different from obligation, which hath of itſelf a power of penetrating the will, and moving it by an inward ſenſe; inſomuch that man is of his own accord, and without any reſtraint or violence, inclined to obey.

Two ſorts of obligations; internal and external.

XIII. From all theſe remarks we may conclude, that the differences between the principal ſyſtems concerning the nature and origin of obligation, are not ſo great as they appear at firſt ſight. Were we to make a cloſer inquiry into theſe opinions, by aſcending to their primitive ſources, we ſhould find that theſe different ideas, reduced to their exact value, far from being oppoſite, agree very well together, and ought even to concur, in order to form a ſyſtem connected properly with all its eſſential parts, in relation to the nature and ſtate of man. This is what we intend more particularly to perform hereafter *. It is proper at preſent to obſerve, that there are two ſorts of obligations, one internal, and the other external. By internal obligation, I underſtand that which is produced only by our own reaſon, conſidered as the primitive rule of conduct, and in conſequence of the good or evil the action in itſelf contains. By external obligation, we mean that which ariſes from the will of a being, on whom we allow ourſelves dependent, and who commands or prohibits ſome particular things, under a commination of puniſhment. Whereto we muſt add, that theſe two obligations, far from being oppoſite to each other, have, on the contrary, a perfect agreement. For as the external obligation

* See the ſecond part, chap. vi.

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is capable of giving a new force to the internal, ſo the whole force of the external obligation ultimately depends on the internal; and it is from the agreement and concurrence of theſe two obligations that the higheſt degree of moral neceſſity ariſes, as alſo the ſtrongeſt tie, or the propereſt motive to make impreſſion on man, in order to determine him to purſue ſteadily and never to deviate from ſome fixt rules of conduct; in a word, by this it is that the moſt perfect obligation is formed.

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## CHAP. VII.

### *Of right conſidered as a faculty, and of the obligation thereto correſponding.*

I. BESIDES the general idea of right, ſuch as has been now explained, conſidering it as the primitive rule of human actions; this term is taken in ſeveral particular ſignifications, which we muſt here point out.

The word *right* is taken in ſeveral particular ſenſes, which are all derived from the general notion.

But, previous to every thing elſe, we ſhould not forget the primitive and general notion we have given of right. For ſince it is from this notion, as from its principle, that the ſubject of this and the following chapters is deduced; if our reaſonings are exact in themſelves, and have a neceſſary connexion with the principle, this will furniſh us with a new argument in its favour. But if, unexpectedly, it ſhould turn out otherwiſe, we ſhall have at leaſt the advantage of detecting the error in its very ſource, and of being better able to correct it. Such is the effect of a juſt method: we are convinced that a general idea is exact,

when the particular ideas are reducible to it as different branches to their trunk.

Definition of right, conſidered as a faculty.

II. In the firſt place, Right is frequently taken for a perſonal quality, for a power of acting or faculty. It is thus we ſay, that every man has a right to attend to his own preſervation; that a parent has a right to bring up his children; that a ſovereign has a right to levy troops for the defence of the ſtate, &c.

In this ſenſe we muſt define Right, a power that man hath to make uſe of his liberty and natural ſtrength in a particular manner, either in regard to himſelf, or in reſpect to other men, ſo far as this exerciſe of his ſtrength and liberty is approved by reaſon.

Thus, when we ſay that a father has a right to bring up his children, all that is meant hereby is, that reaſon allows a father to make uſe of his liberty and natural force in a manner ſuitable to the preſervation of his children, and proper to cultivate their underſtandings, and to train them up in the principles of virtue. In like manner, as reaſon gives its approbation to the ſovereign in whatever is neceſſary for the preſervation and welfare of the ſtate, it particularly authoriſes him to raiſe troops and bring armies into the field, in order to oppoſe an enemy; and in conſequence hereof we ſay he has a right to do it. But, on the contrary, we affirm, that a prince has no right, without a particular neceſſity, to drag the peaſant from the plough, or to force poor tradeſmen from their families; that a father has no right to expoſe his children, or to put them to death, &c. becauſe theſe things, far from being approved, are expreſly condemned by reaſon.

III. We

III. We muſt not therefore confound a ſimple power with right. A ſimple power is a phyſical quality; it is a power of acting in the full extent of our natural ſtrength and liberty: but the idea of right is more confined. This includes a relation of agreeableneſs to a rule which modifies the phyſical power, and directs its operations in a manner proper to conduct man to a certain end. It is for this reaſon we ſay, that right is a moral quality. It is true there are ſome that rank power as well as right among the number of moral qualities*: but there is nothing in this eſſentially oppoſite to our diſtinction. Thoſe who rank theſe two ideas among moral entities, underſtand by power, pretty near the ſame thing as we underſtand by right; and cuſtom ſeems to authoriſe this confuſion; for we equally uſe, for inſtance, *paternal power*, and *paternal right*, &c. Be this as it will, we are not to diſpute about words. The main point is to diſtinguiſh here between *phyſical* and *moral*; and it ſeems that the word *right*, as Puffendorf himſelf inſinuates†, is fitter of itſelf than *power*, to expreſs the moral idea. In ſhort, the uſe of our faculties becomes a right, only ſo far as it is approved by reaſon, and is found agreeable to this primitive rule of human actions. And whatever a man can

We muſt take care to diſtinguiſh between ſimple power and right.

* See Puffendorf on the Law of Nature and Nations, book i. chap. i. § 19.

† There ſeems to be this difference between the terms of *power* and *right*; that the firſt does more expreſly import the preſence of the ſaid quality, and does but obſcurely denote the manner how any one acquired it. Whereas the word *right* does properly and clearly ſhew, that the quality was fairly got, and is now fairly poſſeſſed. *Puffendorf on the Law of Nature and Nations, book* i. *chap.* i. § 20.

*reaſonably* perform, becomes in regard to him a right, becauſe reaſon is the only means that can conduct him in a ſhort and ſure manner to the end he propoſes. There is nothing therefore arbitrary in theſe ideas; they are borrowed from the very nature of things, and if we compare them to the foregoing principles, we ſhall find they flow from thence as neceſſary conſequences.

General foundation of the rights of man.

IV. If any one ſhould afterwards inquire, on what foundation it is that reaſon approves a particular exerciſe of our ſtrength and liberty, in preference to another; the anſwer is obvious. The difference of thoſe judgments ariſes from the very nature of things and their effects. Every exerciſe of our faculties, that tends of itſelf to the perfection and happineſs of man, meets with the approbation of reaſon, which condemns whatever leads to a contrary end.

Right produces obligation.

V. Obligation anſwers to right, taken in the manner above explained, and conſidered in its effects with regard to another perſon.

What we have already ſaid, in the preceding chapter, concerning obligation, is ſufficient to convey a general notion of the nature of this moral quality. But in order to form a juſt idea of that which comes under our preſent examination, we are to obſerve, that when reaſon allows a man to make a particular uſe of his ſtrength and liberty, or, which is the ſame thing, when it acknowledges he has a particular right; it is requiſite, by a very natural conſequence, that in order to enſure this right to man, he ſhould acknowledge at the ſame time, that other people ought not

not to employ their ſtrength and liberty in reſiſting him in this point; but on the contrary, that they ſhould reſpect his right, and aſſiſt him in the exerciſe of it, rather than do him any prejudice. From thence the idea of obligation naturally ariſes; which is nothing more than a reſtriction of natural liberty produced by reaſon; inaſmuch as reaſon does not permit an oppoſition to be made to thoſe who uſe their right, but on the contrary it obliges every body to favour and abet ſuch as do nothing but what it authoriſes, rather than oppoſe or traverſe them in the execution of their lawful deſigns.

Right and obligation are two relative terms.

VI. Right therefore and obligation are, as the logicians expreſs it, two *correllative* terms: one of theſe ideas neceſſarily ſuppoſes the other; and we cannot conceive a right without a correſponding obligation. How, for example, could we attribute to a father the right of forming his children to wiſdom and virtue by a perfect education, without acknowledging at the ſame time that children ought to ſubmit to paternal direction, and that they are not only obliged not to make any reſiſtance in this reſpect, but moreover they ought to concur, by their docility and obedience, to the execution of their parents views? Were it otherwiſe, reaſon would be no longer the rule of human actions: it would contradict itſelf, and all the rights it grants to man would become uſeleſs and of no effect; which is taking from him with one hand what it gives him with the other.

At what time man is ſuſceptible of right and obligation.

VII. Such is the nature of right taken for a faculty, and of the obligation thereto correſponding.

It may be generally affirmed, that man is ſuſceptible of theſe two qualities, as ſoon as he begins to enjoy life and ſenſe. Yet we muſt make ſome difference here, between right and obligation, in reſpect to the time in which theſe qualities begin to unfold themſelves in man. The obligations a perſon contracts as man, do not actually diſplay their virtue till he is arrived to the age of reaſon and diſcretion. For, in order to diſcharge an obligation, we muſt be firſt acquainted with it, we muſt know what we do, and be able to ſquare our actions by a certain rule. But as for thoſe rights that are capable of procuring the advantage of a perſon without his knowing any thing of the matter, they date their origin, and are in full force from the very firſt moment of his exiſtence, and lay the reſt of mankind under an obligation of reſpecting them. For example, the right which requires that nobody ſhould injure or offend us, belongs as well to children, and even to infants that are ſtill in their mothers wombs, as to adult perſons. This is the foundation of that equitable rule of the Roman law, which declares, * *That infants who are as yet in their mothers wombs, are conſidered as already brought into the world, whenever the queſtion relates to any thing that may turn to their advantage.* But we cannot with any exactneſs affirm, that an infant, whether already come or coming into the world, is actu-

* *Qui in utero eſt, perinde ac ſi in rebus humanis eſſet, cuſtoditur, quotiens de commodo ipſius partûs, quæritur.* L. 7. de ſtatu homin. lib. 1. tit. 3. Another civilian eſtabliſhes this rule: *Itaque pati quis injuriam, etiamſi non ſentiat, poteſt: facere nemo, niſi qui ſcit ſe injuriam facere, etiamſi neſciat cui faciat.* L. 3. § 2. D. de injuriis. lib. 47. tit. 10.

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ally ſubject to any obligation with reſpect to other men. This ſtate does not properly commence, with reſpect to man, till he has attained the age of knowledge and diſcretion.

VIII. Various are the diſtinctions of rights and obligations; but it will be ſufficient for us to point out thoſe only, that are moſt worthy of notice *. Several ſorts of rights and obligations.

In the firſt place, rights are natural, or acquired. The former are ſuch as appertain originally and eſſentially to man, ſuch as are inherent in his nature, and which he enjoys as man, independent of any particular act on his ſide. Acquired rights, on the contrary, are thoſe which he does not naturally enjoy, but are owing to his own procurement. Thus the right of providing for our preſervation, is a right natural to man; but ſovereignty, or the right of commanding a ſociety of men, is a right acquired.

Secondly, rights are perfect, or imperfect. Perfect rights are thoſe which may be aſſerted in rigour, even by employing force to obtain the execution, or to ſecure the exerciſe thereof in oppoſition to all thoſe who ſhould attempt to reſiſt or diſturb us. Thus reaſon would impower us to uſe force againſt any one that would make an unjuſt attack upon our lives, our goods, or our liberty. But when reaſon does not allow us to uſe forcible methods, in order to ſecure the enjoyment of the rights it grants us, then theſe rights are called imperfect. Thus, notwithſtanding

* See Puffendorf on the Law of Nature and Nations, book i. chap. i. § 19. and Grotius of the Rights of War and Peace, book i. chap. i. § 4, 5, 6, 7. with Barbeyrac's notes.

reaſon

reaſon authoriſes thoſe, who of themſelves are deſtitute of means of living, to apply for ſuccour to other men; yet they cannot, in caſe of refuſal, inſiſt upon it by force, or procure it by open violence. It is obvious, without our having any occaſion to mention it here, that obligation anſwers exactly to right, and is more or leſs ſtrong, perfect, or imperfect, according as right itſelf is perfect or imperfect.

Thirdly, another diſtinction worthy of our attention, is, that there are rights which may be lawfully renounced, and others that cannot. A creditor, for example, may forgive a ſum due to him, if he pleaſes, either in the whole or part; but a father cannot renounce the right he has over his children, nor leave them in an intire independence. The reaſon of this difference is, that there are rights which of themſelves have a natural connection with our duties, and are given to man only as means to perform them. To renounce this ſort of rights, would be therefore renouncing our duty, which is never allowed. But with reſpect to rights that no way concern our duties, the renunciation of them is licit, and only a matter of prudence. Let us illuſtrate this with another example. Man cannot abſolutely, and without any manner of reſerve, renounce his liberty; for this would be manifeſtly throwing himſelf into a neceſſity of doing wrong, were he ſo commanded by the perſon to whom he has made this ſubjection. But it is lawful for us to renounce a part of our liberty, if we find ourſelves better enabled thereby to diſcharge our duties, and to acquire ſome certain and reaſonable advantage. It is with theſe modifications

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we muſt underſtand the common maxim, *That it is allowable for every one to renounce his right.*

Fourthly; Right, in fine, conſidered in reſpect to its different objects, may be reduced to four principal ſpecies. 1. The right we have over our own perſons and actions, which is called *Liberty.* 2. The right we have over things or goods that belong to us, which is called *Property.* 3. The right we have over the perſons and actions of other men, which is diſtinguiſhed by the name of *Empire* or *Authority.* 4. And, in fine, the right one may have over other men's things, of which there are ſeveral ſorts. It ſuffices, at preſent, to have given a general notion of theſe different ſpecies of right. Their nature and effects will be explained, when we come to a particular inquiry into theſe matters.

Such are the ideas we ought to have of right, conſidered as a faculty. But there is likewiſe another particular ſignification of this word, by which it is taken for *law*; as when we ſay, that natural right is the foundation of morality and politics; that it forbids us to break our word; that it commands the reparation of damage, &c. In all theſe caſes, right is taken for *law.* And as this kind of right agrees in a particular manner with man, it is therefore a matter of importance to clear and explain it well, which we ſhall endeavour to perform in the following chapters.

CHAP.

## CHAP. VIII.*

### *Of Law in general.*

I. IN the reſearches hitherto made concerning the rule of human actions, we have conſulted only the nature of man, his eſſence, and what belongs to his internal part. This inquiry has ſhewn us, that man finds within himſelf, and in his own *Reaſon*, the rule he ought to follow; and ſince the counſels which reaſon gives him, point out the ſhorteſt and ſafeſt road to his perfection and happineſs, from thence ariſes a principle of obligation, or a cogent motive to ſquare his actions by this primitive rule. But in order to have an exact knowledge of the human ſyſtem, we muſt not ſtop at theſe firſt conſiderations; we ſhould likewiſe, purſuant to the method already pointed out in this work, † transfer our attention to the different ſtates of man, and to the relations from thence ariſing, which muſt abſolutely produce ſome particular modifications in the rules he is to follow. For, as we have already obſerved, theſe rules ought not only to be conformable to the nature of man, but they ſhould be proportionable moreover to his ſtate and ſituation.

As man by nature is a dependent being, the law ought to be the rule of his actions.

II. Now among the primitive ſtates of man, dependence is one of thoſe which merits the moſt attention, and ought to have the greateſt influence on

* See Puffendorf on the Law of Nature and Nations, book i. chap. vi.

† See chap. iii. of this part, § 3.

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the rule he is to obſerve. In fact, a being independent of every body elſe, has no other rule to purſue but the counſels of his own reaſon; and in conſequence of this independence he is freed from all ſubjection to another's will; in ſhort, he is abſolute maſter of himſelf and his actions. But the caſe is not the ſame with a being who is ſuppoſed to be dependent on another, as on his ſuperior and maſter. The ſenſe of this dependence ought naturally to engage the inferior to take the will of him on whom he depends for the rule of his conduct; ſince the ſubjection in which he finds himſelf, does not permit him to entertain the leaſt reaſonable hopes of acquiring any ſolid happineſs, independent of the will of his ſuperior, and of the views he may propoſe in relation to him *. Beſides, this has more or leſs extent and effect, in proportion as the ſuperiority of the one, and the dependence of the other, is greater or leſs, abſolute or limited. It is obvious that all theſe remarks are in a particular manner applicable to man; ſo that as ſoon as he acknowledges a ſuperior, to whoſe power and authority he is naturally ſubject; in conſequence of this ſtate, he muſt acknowledge likewiſe the will of this ſuperior to be the rule of his actions. This is the *Right* we call *Law*.

It is to be underſtood however, that this will of the ſuperior has nothing in it contrary to reaſon, the primitive rule of man. For were this the caſe, it would be impoſſible for us to obey him. In order to render a law the rule of human actions, it ſhould be abſolutely agreeable to the nature and conſtitution

* See chap. vi. § 3.

of man, and be ultimately deſigned for his happineſs, which reaſon makes him neceſſarily purſue. Theſe remarks, though clear enough of themſelves, will receive a greater light, when we have more particularly explained the nature of law.

Definition of law.

III. Law I define, a rule preſcribed by the ſovereign of a ſociety to his ſubjects, either in order to lay an obligation upon them of doing or omitting certain things, under the commination of puniſhment; or to leave them at liberty to act or not in other things juſt as they think proper, and to ſecure to them, in this reſpect, the full enjoyment of their rights.

By thus defining law, we deviate a little from the definitions given by Grotius and Puffendorf. But the definitions of theſe authors are, methinks, ſomewhat too vague, and beſides do not ſeem to agree with law conſidered in its full extent. This opinion of mine will be juſtified by the particular explication I am going to enter upon, provided it be compared with the paſſages here referred to *.

Why law is defined *a rule preſcribed.*

IV. I ſay that *law is a rule*, to ſignify, in the firſt place, what law has in common with counſel; which is, that they are both rules of conduct; and ſecondly, to diſtinguiſh law from the tranſient orders which may be given by a ſuperior, and not being permanent rules of the ſubject's conduct, are not properly laws. The idea of *rule* includes prin-

* See Grotius on the Rights of War and Peace, book i. chap. i. § 9. And Puffendorf on the Law of Nature and Nations, book i. chap. vi. § 4 To which we may add Monſ. Barbeyrac's notes.

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cipally theſe two things, *univerſality* and *perpetuity*; and both theſe characters being eſſential to rule, generally conſidered, help to diſcriminate law from any other particular will of the ſovereign.

I add, that *law is a rule preſcribed*; becauſe a ſimple reſolution confined within the ſovereign's mind, without manifeſting itſelf by ſome external ſign, can never be a law. It is requiſite that this will be notified in a proper manner to the ſubjects; ſo that they be acquainted with what the ſovereign requires of them, and with the neceſſity of ſquaring thereby their conduct. But in what manner this notification is to be made, whether *viva voce*, by writing, or otherwiſe, is a matter of mere indifference. Sufficient it is, that the ſubjects be properly inſtructed concerning the will of the legiſlator.

What is underſtood by *a ſovereign, ſovereignty, and the right of commanding.*

V. Let us finiſh the explication of the principal ideas that enter into the definition of law. Law is preſcribed by the *ſovereign*; this is what diſtinguiſhes it from *counſel*, which comes from a friend or equal; who, as ſuch, has no power over us, and whoſe advices, conſequently, neither have the ſame force, nor produce the ſame obligation as law, which coming from a ſovereign, has for its ſupport the command and authority of a ſuperior *. Counſels are followed for reaſons drawn from the nature of the thing; laws are obeyed, not only on account of the reaſons on which they are eſtabliſhed, but likewiſe becauſe of the authority of the ſovereign

* See the Law of Nature and Nations, book. i. chap. vi. § 2.

that preſcribes them. The obligation ariſing from counſel is merely internal; that of law is both internal and external *.

Society, as we have already obſerved, is the union of ſeveral perſons for a particular end, from whence ſome common advantage ariſes. The end, is the effect or advantage which intelligent beings propoſe to themſelves, and are willing to procure. The union of ſeveral perſons, is the concurrence of their will to procure the end they aim at in common. But though we make the idea of ſociety enter into the definition of law, it muſt not be inferred from thence, that ſociety is a condition abſolutely eſſential and neceſſary to the enacting of laws. Conſidering the thing exactly, we may very well form a conception of law, when the ſovereign has only a ſingle perſon ſubject to his authority; and it is only in order to enter into the actual ſtate of things, that we ſuppoſe a ſovereign commanding a ſociety of men. We muſt nevertheleſs obſerve, that the relation there is between the ſovereign and the ſubjects, forms a ſociety between them, but of a particular kind, which we may call *ſociety of inequality*, where the ſovereign commands, and the ſubjects obey.

The ſovereign is therefore he who has a right to command in the laſt reſort. To command, is directing the actions of thoſe who are ſubject to us, according to our own will, and with authority or the power of conſtraint. I ſay that *the ſovereign commands in the laſt reſort*, to ſhew that as he has the firſt rank in ſociety, his will is ſuperior to any other, and holds all the members of the ſociety in ſubjec-

* See above, chap. vi. § 13.

tion.

tion. In fine, the right of commanding is nothing more than the power of directing the actions of others with authority. And as the power of exerciſing one's force and liberty is no farther a right, than as it is approved and authorized by reaſon, it is on this approbation of reaſon, as the laſt reſort, that the right of commanding is eſtabliſhed.

VI. This leads us to inquire more particularly into the natural foundation of empire or ſovereignty; or, which amounts to the ſame thing, what is it that confers or conſtitutes a right of laying an obligation on another perſon, and of requiring his ſubmiſſion and obedience. This is a very important queſtion in itſelf; important alſo in its effects. For the more we are convinced of the reaſons, which eſtabliſh on the one hand authority, and dependance on the other, the more we are inclined to make a real and voluntary ſubmiſſion to thoſe on whom we depend. Beſides, the diverſity of ſentiments, in relation to the manner of laying the foundation of ſovereignty, is a ſufficient proof that this ſubject requires to be treated with care and attention.

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## CHAP. XIX.

### *Of the foundation of ſovereignty, or the right of commanding.*

I. INQUIRING here into the foundation of the right of command, we conſider the thing only in a general and metaphyſical manner. The queſtion

First remark. The queſtion is, in regard to a neceſſary ſovereignty.

queſtion is to know the foundation of a neceſſary ſovereignty and dependance; that is, ſuch as is founded on the very nature of things, and is a natural conſequence of the conſtitution of thoſe beings to whom it is attributed. Let us therefore wave whatever relates to a particular ſpecies of ſovereignty, in order to aſcend to the general ideas from whence the firſt principles are derived. But as general principles, when juſt and well founded, are eaſily applied to particular caſes; it follows therefore, that the firſt foundation of ſovereignty, or the reaſons on which it is eſtabliſhed, ought to be laid in ſuch a manner, as to be eaſily applicable to the ſeveral ſpecies that fall within our knowledge. By this means, as we obſerved before, we can be fully ſatisfied with regard to the juſtneſs of the principles, or diſtinguiſh whether they are defective.

Second remark. There is neither ſovereignty nor neceſſary dependance between beings perfectlyequal.

II. Another general and preliminary remark is, that there can be neither ſovereignty nor natural and neceſſary dependance between beings, which by their nature, faculties, and ſtate, have ſo perfect an equality, that nothing can be attributed to one which is not alike applicable to the other. In fact, in ſuch a ſuppoſition, there could be no reaſon, why one ſhould arrogate an authority over the reſt, and ſubject them to a ſtate of dependance, of which the latter could not equally avail themſelves againſt the former. But as this reduces the thing to an abſurdity, it follows, that ſuch an equality between ſeveral beings excludes all ſubordination, all empire and neceſſary dependance of one on the other; juſt as the equality of two weights keeps theſe in a perfect equilibrium. There muſt

be therefore in the very nature of thoſe beings, who are ſuppoſed to be ſubordinate one to the other, an eſſential difference of qualities, on which the relation of ſuperior and inferior may be founded. But the ſentiments of writers are divided in the determination of thoſe qualities.

Different opinions on the origin and foundation of ſovereignty.

III. 1. Some pretend that the ſole ſuperiority of ſtrength, or, as they expreſs it, an irreſiſtible power, is the true and firſt foundation of the right of impoſing an obligation, and preſcribing laws. "This "ſuperiority of power gives, according to them, "a right of reigning, by the impoſſibility in which "it places others, of reſiſting him who has ſo great "an advantage over them *."

2. Others there are, who derive the origin and foundation of ſovereignty, from the eminency or ſuperior excellence of nature; "which not only ren-"ders a being independent of all thoſe who are "of an inferior nature; but moreover cauſes the "latter to be regarded as made for the former. "And of this, ſay they, we have a proof in the "very conſtitution of man, where the ſoul governs, "as being the nobleſt part; and it is likewiſe on this "foundation, that the empire of man over brutes is "grounded †."

3. A third opinion, which deſerves alſo our notice, is that of Barbeyrac ‡. According to this ju-

* See Hobbes de Cive, cap. 15. § 5.

† See Puffendorf on the Law of Nature and Nations, book i. chap. vi. § 11.

‡ It is found in the ſecond note on ſection 12. of Puffendorf on the Law of Nature and Nations, book 1. chap. 6. and in the third note on § 5. of the Duties of Man and a Citizen, book 1. ch. 2.

dicious author, "there is, properly ſpeaking, only "one general foundation of obligation, to which "all others may be reduced, and that is, our natu- "ral dependance on God, inaſmuch as he has given "us being, and has conſequently a right to require "we ſhould apply our faculties to the uſe for "which he has manifeſtly deſigned them. An ar- "tiſt, he continues, as ſuch, is maſter of his own "work, and can diſpoſe of it as he pleaſes. Were "a ſculptor capable of making animated ſtatues, "this alone would intitle him to inſiſt, that the "marble ſhaped by his own hands, and endowed "by him with underſtanding, ſhall be ſubject to "his will.—But God is the author of the matter "and form of the parts of which our being is com- "poſed, and he has given them all the faculties, "with which they are inveſted. To theſe faculties, "therefore, he has a right to preſcribe what limits "he pleaſes, and to require that men ſhould uſe "them in ſuch or ſuch a manner, &c."

Examen of thoſe opinions.

1. The ſole ſuperiority of power is inſufficient to found a right of commanding.

IV. Such are the principal ſyſtems on the origin and foundation of ſovereignty and dependance. Let us examine them thoroughly, and in order to paſs a right judgment, let us take care not to forget the diſtinction of phyſical and moral neceſſity, nor the primitive notions of right and obligation, ſuch as have been above explained *.

1. This being premiſed, I affirm, that thoſe who found the right of preſcribing laws on the ſole ſuperiority of ſtrength, or on an irreſiſtible power, eſtabliſh an inſufficient principle, and which, rigorouſly

* Chap. vi. and vii.

conſidered, is abſolutely falſe. In fact, it does not follow, that becauſe I am incapable to reſiſt a perſon, he has therefore a right to command me, that is, that I am bound to ſubmit to him by virtue of a principle of obligation, and to acknowledge his will as the univerſal rule of my conduct. Right being nothing elſe but that which reaſon approves, it is this approbation only which reaſon gives to him who commands, that is capable of founding his right, and, by a neceſſary conſequence, produces that inward ſenſe, which we diſtinguiſh by the name of Obligation, and inclines us to a ſpontaneous ſubmiſſion. Every obligation therefore ſuppoſes ſome particular reaſons that influence the conſcience and bend the will, inſomuch that, purſuant to the light of our own reaſon, we ſhould think it criminal to reſiſt, were it even in our power, and ſhould conclude that we have therefore no right to do it. Now a perſon that alledges no other reaſon, but a ſuperiority of force, does not propoſe a motive ſufficient to oblige the will. For inſtance, the power which may chance to reſide in a malignant being, neither inveſts him with any right to command, nor impoſes any obligation on us to obey; becauſe this is evidently repugnant even to the very idea of right and obligation. On the contrary, the firſt counſel which reaſon gives us in regard to a malignant power, is to reſiſt, and, if poſſible, to deſtroy him. Now, if we have a right to reſiſt, this right is inconſiſtent with the obligation of obeying, which is evidently thereby excluded. True it is, that if we clearly ſee that all our efforts will be uſeleſs, and that our reſiſtance muſt only ſubject us to a greater evil; we ſhould chuſe to ſub-

mit, though with reluctance for a while, rather than expoſe ourſelves to the attacks and violence of a malignant power. But in this caſe we ſhould be conſtrained, though not under an obligation. We endure, in ſpite of us, the effects of a ſuperior force, and whilſt we make an external ſubmiſſion, we inwardly feel our nature riſe and proteſt againſt it. This leaves us always a full right to attempt all ſorts of ways to ſhake off the unjuſt and oppreſſive yoke. There is therefore, properly ſpeaking, no obligation in that caſe; now the default of obligation implies the default of right *. We have omitted making mention here of the dangerous conſequences of this ſyſtem, it is ſufficient at preſent to have refuted it by principles; and perhaps we ſhall have occaſion to take notice of theſe conſequences another time.

2. Nor the ſole excellence or ſuperiority of nature.

V. The other two opinions have ſomething in them that is plauſible and even true; yet they do not ſeem to me to be intirely ſufficient. The principles they eſtabliſh are too vague, and have need to be reduced to a more determinate point.

2. And, indeed, I do not ſee, that the ſole excellency of nature is ſufficient to found a right of ſovereignty. I will aknowledge, if you pleaſe, this excellency, and agree to it as a truth that I am well convinced of: This is the whole effect that muſt naturally ariſe from this hypotheſis. But here I make a halt; and the knowledge I have of the excellency of a ſuperior being does not alone afford me a motive ſufficient to ſubject myſelf to him, and to induce me to abandon my own will, in order to

* See chap. viii. § 6.

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take his for my rule. So long as I am confined to theſe general heads, and am informed of nothing more, I do not feel myſelf inclined by an internal motion to ſubmit; and without any reproach of conſcience, I may ſincerely judge, that the intelligent principle within me, is ſufficient to direct my conduct. So far we confine ourſelves to mere ſpeculation. But if you ſhould attempt to require any thing more of me, the queſtion would then be reduced to this point: How and in what manner does this being, whom you ſuppoſe to ſurpaſs me in excellence, intend to conduct himſelf with regard to me; and by what effects will this ſuperiority or excellence be diſplayed? Is he willing to do me good or harm, or is he, in reſpect to me, in a ſtate of indifference? To theſe interrogations there muſt be abſolutely ſome anſwer given; and according to the ſide that is choſen, I ſhall agree perhaps, that this being has a right to command me, and that I am under an obligation of obeying. But theſe reflections are, if I am not miſtaken, a demonſtrative proof, that it is not ſufficient to alledge merely and ſimply the excellence of a ſuperior being, in order to eſtabliſh the foundation of ſovereignty.

VI. Perhaps there is ſomething more exact in the third hypotheſis. "God, ſay they, is the Creator of "man; it is from him he has received and holds "his life, his reaſon, and all his faculties; he is "therefore maſter of his work, and can of courſe "preſcribe what rules he pleaſes. Hence our de-"pendance, hence the abſolute empire of God over "us naturally ariſes; and this is the very origin or "firſt foundation of all authority."

3. Nor the ſole quality of Creator.

The ſum of what is here alledged to found the empire of God over man, is reduced to his ſupreme power. But does it follow from thence only, and by an immediate and neceſſary conſequence, that he has a right to preſcribe laws to us? That is the queſtion. The ſovereign power of God enables him to diſpoſe of man as he has a mind, to require of him whatever he pleaſes, and to lay him under an abſolute neceſſity of complying: For the creature cannot reſiſt the Creator; and by its nature and ſtate it finds itſelf in ſo abſolute a dependance, that the Creator may, if ſo is his pleaſure, even annihilate and deſtroy it. This we own, is certain; and yet it does not ſeem ſufficient to eſtabliſh the right of the Creator. There is ſomething more than this requiſite to form a moral quality of a ſimple power, and to convert it into right*. In a word, it is neceſſary, as we have more than once obſerved, that the power be ſuch as ought to be approved by reaſon; to the end that man may ſubmit to it willingly, and by that inward ſenſe which produces obligation.

Here I beg leave to make a ſuppoſition that will ſet the thing in a much clearer light. Had the Creator given exiſtence to the creature only to render it unhappy, the relation of Creator and creature would ſtill ſubſiſt, and yet we could not poſſibly conceive, in this ſuppoſition, either right or obligation. The irreſiſtible power of the Creator might indeed conſtrain the creature; but this conſtraint would never form a reaſonable obligation, a moral tie; becauſe an obligation of this nature always ſuppoſes the concurrence of the will, and an approbation or an acquieſcence on the part

* See chap. vii. § 3.

of

of man, from whence a voluntary ſubmiſſion ariſes. Now this acquieſcence could never be given to a being, that would exert his ſupreme power only to oppreſs his creature, and render it unhappy.

The quality therefore of Creator is not alone and of itſelf ſufficient to eſtabliſh the right of command, and the obligation of obeying.

*True foundation of ſovereignty: Power, wiſdom, and goodneſs joined together.*

VII. But if to the idea of Creator we join (which Barbeyrac probably ſuppoſed, though he has not diſtinctly expreſſed it) the idea of a being perfectly wiſe and ſovereignly good, who has no deſire of exerciſing his power but for the good and advantage of his creatures; then we have every thing neceſſary to found a legitimate authority.

Let us only conſult ourſelves, and ſuppoſe, that we not only derive our exiſtence, life, and all our faculties, from a being infinitely ſuperior to us in power; but moreover, that we are perfectly convinced that this being, no leſs wiſe than powerful, had no other aim in creating us, but to render us happy, and that with this view he is willing to ſubject us to laws: certain it is, that under theſe circumſtances, we could not avoid approving of ſuch a power, and the exerciſe thereof in reſpect to us. Now this approbation is acknowledging the right of the ſuperior; and conſequently the firſt counſel that reaſon gives us, is to reſign ourſelves to the direction of ſuch a maſter, to ſubject ourſelves to him, and to conform all our actions to what we know in relation to his will. And why ſo? becauſe it is evident to us, from the very nature of things, that this is the ſureſt and ſhorteſt way to arrive at happineſs,

pineſs, the end to which all mankind aſpire. And from the manner we are formed, this knowledge will be neceſſarily attended with the concurrence of our will, with our acquieſcence, and ſubmiſſion; inſomuch that if we ſhould act contrary to thoſe principles, and any misfortune ſhould afterwards befall us, we could not avoid condemning ourſelves, and acknowledging, that we have juſtly drawn upon ourſelves the evil we ſuffer. Now this is what conſtitues the true character of obligation, properly ſo called.

Explication of our opinion.

VIII. If we have therefore a mind to embrace and take in the whole, in order to form a complete definition, we muſt ſay, that the right of ſovereignty ariſes from a ſuperiority of power, accompanied with wiſdom and goodneſs.

I ſay, in the firſt place, *a ſuperiority of power*, becauſe an equality of power, as we have obſerved in the very beginning, excludes all empire, all natural and neceſſary ſubordination; and beſides, ſovereignty and command would become uſeleſs and of no manner of effect, were they not ſupported by a ſufficient power. What would it avail a perſon to be a ſovereign, unleſs he were poſſeſſed of effectual methods to enforce his orders and make himſelf obeyed?

But this is not yet ſufficient; wherefore I ſay, in the ſecond place, that this power ought to be *wiſe and benevolent: wiſe*, to know and to chuſe the propereſt means to make us happy; and *benevolent*, to be generally inclinable to uſe thoſe means that tend to promote our felicity.

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In order to be convinced of this, it will be ſufficient to remark three caſes, which are the only ones that can be here ſuppoſed. Either he is, with reſpect to us, an indifferent power, that is, a power willing to do us neither good nor harm, as no ways intereſting himſelf in what concerns us; or he is a malignant power; or, in fine, he is a propitious and benevolent power.

In the firſt caſe, our queſtion cannot take place. How ſuperior ſoever a being is in regard to me, ſo long as he does not concern himſelf about me, but leaves me intirely to myſelf; I remain in as complete a liberty, in reſpect to him, as if he were not known to me, or as if he did not at all exiſt *. Wherefore there is no authority on his ſide, nor obligation on mine.

But if we ſuppoſe a malignant power; reaſon, far from approving, revolts againſt him, as againſt an enemy, ſo much the more dangerous, as he is inveſted with greater power. Man cannot acknowledge ſuch a power has a right; on the contrary, he finds himſelf authorized to leave no meaſure untried to get rid of ſo formidable a maſter, in order to be ſheltered from the evils with which he might otherwiſe be unjuſtly afflicted.

* And therefore though that notion of the Epicureans was moſt ſenſeleſs and impious, in which they deſcribed the gods, as enjoying their own happineſs with the higheſt peace and tranquillity, far removed from the troubleſome care of human buſineſs, and neither ſmiling at the good, nor frowning at the wicked deeds of men; yet they rightly enough inferred, that upon this ſuppoſition, all religion, and all fear of divine powers, was vain and uſeleſs. *Puffendorf, Law of Nature and Nations, book* i. *chap.* vi. § 11. *See Cicero de Nat. Deor. lib.* 1. *cap.* 2.

But

But let us ſuppoſe a being equally wiſe and beneficent. Man, inſtead of being able to refuſe him his approbation, will feel himſelf inwardly and naturally inclined to ſubmit and acquieſce intirely in the will of ſuch a being, who is poſſeſſed of all the qualities neceſſary to conduct him to his ultimate end. By his *power*, he is perfectly able to procure the good of thoſe who are ſubject to him, and to remove whatever may poſſibly injure them. By his *wiſdom*, he is thoroughly acquainted with the nature and conſtitution of thoſe on whom he impoſes laws, and knows their faculties and ſtrength, and in what their real intereſts conſiſt. He cannot therefore be miſtaken, either in the deſigns he propoſes for their benefit, or in the means he employs in order to attain them. In fine, *goodneſs* inclines ſuch a ſovereign to be really willing to render his ſubjects happy, and conſtantly to direct to this end the operations of his wiſdom and power. Thus the aſſemblage of theſe qualities, by uniting in the very higheſt degree all that is capable of deſerving the approbation of reaſon, comprizes whatſoever can determine man, and lay him under an internal as well as external obligation of ſubmiſſion and obedience. Here therefore lies the true foundation of the right of ſovereignty.

We muſt not ſeparate the qualities which form the right of ſovereignty.

IX. In order to bind and ſubject free and rational creatures, there is no neceſſity, properly ſpeaking, for more than an empire or authority, whoſe wiſdom and lenity would forcibly engage the approbation of reaſon, independent of the motives excited by the apprehenſion of power. But as it eaſily happens, from

from the manner that men are formed, that either through levity and neglect, or paſſion and malice, they are not ſo much ſtruck as they ought, with the wiſdom of the legiſlator, and with the excellency of his laws; it was therefore proper there ſhould be an efficacious motive, ſuch as the apprehenſion of puniſhment, in order to have a ſtronger influence over the will. For which reaſon it is neceſſary that the ſovereign ſhould be armed with power and force, to be better able to maintain his authority. Let us not ſeparate therefore theſe different qualities, which form, by their concurrence, the right of the ſovereign. As power alone, unaccompanied with benevolence, cannot conſtitute any right; ſo benevolence, deſtitute of power and wiſdom, is likewiſe inſufficient for this effect. For from this only, that a perſon wiſhes another well, it does not follow, that he is his maſter: neither are a few particular acts of benevolence ſufficient for that purpoſe. A benefit requires no more than gratitude and acknowledgment; for in order to teſtify our gratitude, it is not neceſſary we ſhould ſubject ourſelves to the power of our benefactor. But let us join theſe ideas, and ſuppoſe, at one and the ſame time, a ſovereign power, on which every one actually and really depends; a ſovereign wiſdom, that directs this power; and a ſupreme goodneſs, by which it is animated. What can we deſire more, to eſtabliſh, on the one ſide, the moſt eminent authority, and, on the other, the greateſt ſubordination? We are compelled then, as it were, by our own reaſon, which will not ſo much as ſuffer us to deny, that ſuch a ſuperior is inveſted with

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a true right to command, and that we are under a real obligation to obey *.

Definition of ſubjection. Foundation of dependance.

X. The notions of ſovereign and ſovereignty being once ſettled, it is eaſy to fix thoſe of ſubjection and dependance.

Subjects therefore are perſons, that are under an obligation of obeying. And as it is power, wiſdom, and benevolence, that conſtitute ſovereignty; we muſt ſuppoſe, on the contrary, in ſubjects the weakneſs and wants, from whence dependance ariſes.

It is therefore right in Puffendorf to remark †, that what renders man ſuſceptible of an obligation produced by an external principle, is that he naturally depends on a ſuperior, and that moreover as a free and intelligent being, he is capable of knowing the rules given him, and of chuſing to conform his actions to them. But theſe are rather condi-

* It may indeed be ſaid, that the foundation of external obligation is the will of a ſuperior (ſee above, chap. vi. § xiii.) provided this general propoſition be afterwards explained by the particulars into which we have entered. But when ſome add, that force has nothing to do with the foundation of this obligation, and that it only ſerves to enable the ſuperior to exert his right (ſee Barbeyrac's 1ſt note on the 9th ſection of Puffendorf's large work, book 1. chap. 6.) this notion does not appear to me to be exact; and methinks that this abſtract manner of conſidering the thing, ſubverts the very foundation of the obligation here in queſtion. There can be no external obligation without a ſuperior, nor a ſuperior without force, or, which is the ſame thing, without power: force therefore or power is a neceſſary part of the foundation of obligation.

† See the Duties of Man and a Citizen, book 1. chap. 2. § 4. and the Law of Nature and Nations, book 1. chap. 6. § 6, 8.

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tions neceſſarily ſuppoſed, and of themſelves underſtood, than the exact and immediate cauſes of ſubjection. More important it is to obſerve, that as the power of obliging a rational creature is founded on the ability and will of making him happy, if he obeys; unhappy, if he diſobeys; this ſuppoſes that this creature is capable of good and evil, ſenſible of pleaſure and pain, and beſides that his ſtate of happineſs or miſery may be either increaſed or diminiſhed. Otherwiſe, he might be forced indeed, by a ſuperior power, to act after a certain manner, but he could not be properly obliged.

The obligation produced by law, is the moſt perfect that can be imagined.

XI. Such is the true foundation of ſovereignty and dependance; a foundation that might be ſtill better eſtabliſhed, by applying theſe general principles to the particular ſpecies of known ſovereignty or empire, ſuch as that of God over man, that of a prince over his ſubjects, and the power of fathers over their children. We ſhould be convinced thereby, that all theſe ſpecies of authority are originally founded on the principles above eſtabliſhed; which would ſerve for a new proof of the truth of thoſe principles *. But it is ſufficient to have hinted here in general at this remark; the particulars we reſerve for another place.

An authority eſtabliſhed on ſuch a foundation, and which comprizes whatever can be imagined moſt efficacious and capable to bind man, and to incline him to be ſteadily directed by certain rules of conduct, undoubtedly forms the completeſt and ſtrongeſt obligation. For there is no obligation more perfect than

* See ſection 1.

that

that which is produced by the ſtrongeſt motives to determine the will, and the moſt capable, by their preponderancy, to prevail over all other contrary reaſons *. Now every thing concurs here to this effect: the nature of the rules preſcribed by the ſovereign, which of themſelves are the fitteſt to promote our perfection and felicity; the power and authority with which he is inveſted, whereby he is enabled to decide our happineſs or miſery; and, in fine, the intire confidence we have in him, becauſe of his power, wiſdom, and goodneſs. What can we imagine more to captivate the will, to gain the heart, to oblige man, and to produce within him the higheſt degree of moral neceſſity, which conſtitutes the moſt perfect obligation? I ſay, *moral neceſſity*; for we are not to deſtroy the nature of man; he remains always what he is, a free and intelligent being; and as ſuch, the ſovereign undertakes to direct him by his laws. Hence it is that even the ſtricteſt obligations never force the will; but, rigorouſly ſpeaking, man is always at liberty to comply or not, though, as we commonly ſay, at his riſk and peril. But if he conſults reaſon, and is willing to follow its dictates, he will take particular care to avoid exerciſing this metaphyſical power, in oppoſition to the views of his ſovereign; an oppoſition that muſt terminate in his own miſery and ruin.

Obligation is internal andexternal at the ſame time.

XII. We have already obſerved, that there are two ſorts of obligation †; the one internal, which is the work of reaſon only, and founded on the good or evil we perceive in the very nature of things:

* See chap. vi. § 10. † See chap. vi. § 13.

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the other external, which is produced by the will of him whom we acknowledge our ſuperior and maſter. Now the obligation produced by law, unites theſe two ſorts of ties, which by their concurrence ſtrengthen each other, and thus form the completeſt obligation that can poſſibly be imagined. It is probably for this reaſon, that moſt civilians acknowledge no other obligation properly ſo called, but that which is the effect of law, and impoſed by a ſuperior. This is true, if we mean only an external obligation, which indeed is the ſtrongeſt tie of man. But it muſt not be inferred from thence, that we ought to admit no other ſort of obligation. The principles we eſtabliſhed, when inquiring into the firſt origin and the nature of obligation generally conſidered, and the particular remarks we have juſt now made on the obligation ariſing from law, are ſufficient, if I am not miſtaken, to evince, that there is a primitive, original, and internal obligation, which is inſeparable from reaſon, and ought neceſſarily to concur with the external obligation, in order to communicate to the latter all the neceſſary force for determining and bending the will, and for influencing effectually the human heart.

By diſtinguiſhing rightly theſe ideas, we ſhall find, perhaps, that this is one way of reconciling opinions, which ſeem to be wide from each other, only becauſe they are miſunderſtood*. Sure it is at leaſt, that the manner in which we have explained the foundation of ſovereignty and dependance, coincides, in the main, with Puffendorf's ſyſtem, as will eaſily

* See part the ſecond, chap. vi.

appear by comparing it with what this author ſays, whether in his large work, or in his abridgment *.

## CHAP. X.

### *Of the end of laws; of their characters, differences, &c.*

Of the end of laws, either in regard to the ſubjects, or in reſpect to the ſovereign.

I. SOME perhaps will complain, that we have dwelt too long on the nature and foundation of ſovereignty. But the importance of the ſubject required us to treat it with care, and to unravel properly its principles. Beſides, we apprehend, that nothing could contribute better to a right knowledge of the nature of law; and we ſhall preſently ſee, that whatever in fact remains for us ſtill to ſay concerning this ſubject, is deduced from the principles juſt now eſtabliſhed.

In the firſt place, it may be aſked, what is the end and deſign of laws?

This queſtion preſents itſelf in two different lights; namely, with reſpect to the ſubject, and with regard to the ſovereign: a diſtinction that muſt be carefully obſerved.

The relation of the ſovereign to his ſubjects forms a kind of ſociety between them, which the ſovereign directs by the laws he eſtabliſhes †. But as ſociety

* See the Law of Nature and Nations, book. i. chap. vi. § 5, 6, 8, and 9. And the Duties of Man and a Citizen, book. i. chap. ii. § 3, 4, 5.

† See chap. viii. § 5.

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naturally requires there ſhould be ſome proviſion made for the good of all thoſe who are the conſtituent parts thereof, it is by this principle we muſt judge of the end of laws: and this end, conſidered with reſpect to the ſovereign, ought to include nothing in it oppoſite to the end of theſe very laws conſidered with regard to the ſubject.

II. The end of the law in regard to the ſubject is, that he ſhould conform his actions to it, and by this means acquire happineſs. As for what concerns the ſovereign, the end he aims at for himſelf, by giving laws to his ſubjects, is the ſatisfaction and glory ariſing from the execution of the wiſe deſigns he propoſes, for the preſervation of thoſe who are ſubject to his authority. Theſe two ends of the law ſhould never be ſeparated, one being naturally connected with the other; for it is the happineſs of the ſubject that forms the ſatisfaction and glory of the ſovereign.

III. We ſhould therefore take care not to imagine that laws are properly made in order to bring men under a yoke. So idle an end would be quite unworthy of a ſovereign, whoſe goodneſs ought to be equal to his power and wiſdom, and who ſhould always act up to theſe perfections. Let us ſay rather, that laws are made to oblige the ſubject to purſue his real intereſt, and to chuſe the ſureſt and beſt way to attain the end he is deſigned for, which is happineſs. With this view the ſovereign is willing to direct his people better than they could themſelves, and gives a check to their liberty, leſt they ſhould

The end of laws is not to lay a reſtraint upon liberty, but to direct it in a proper manner.

make a bad uſe of it contrary to their own and the public good. In ſhort, the ſovereign commands rational beings; it is on this footing he treats with them; all his ordinances have the ſtamp of reaſon; he is willing to reign over our hearts; and if at any time he employs force, it is in order to bring back to reaſon thoſe who have unhappily ſtrayed from it, contrary to their own good and that of ſociety.

Examen of what Puffendorf ſays concerning this ſubject.

IV. Wherefore Puffendorf, methinks, ſpeaks ſomewhat looſely in the compariſon he draws between law and counſel, where he ſays, "That counſel "tends to the ends propoſed by thoſe to whom it is "given, and that they themſelves can judge of thoſe "ends, in order to approve or diſapprove them. "——Whereas law aims only at the end of the "perſon that eſtabliſhes it, and if ſometimes it has "views in regard to thoſe for whom it is made, "it is not their buſineſs to examine them—this de-"pends intirely on the determination of the legiſla-"tor *." It would be a much juſter way, methinks, of expreſſing the thing, to ſay, that laws have a double end, relative to the ſovereign and the ſubject; that the intent of the ſovereign in eſtabliſhing them, is to conſult his own ſatisfaction and glory, by rendering his ſubjects happy; that theſe two things are inſeparable; and that it would be doing injuſtice to the ſovereign to imagine he thinks only of himſelf, without any regard to the good of thoſe who are his dependants. Puffendorf ſeems here, as well as in ſome other places, to give a little too much into Hobbes's principles.

* See the Law of Nature and Nations, book i. chap. vi. § 1.

V. We

V. We defined law, a rule which lays an obligation on ſubjects of doing or omitting certain things, and leaves them at liberty to act or not to act in other matters, according as they judge proper, &c. This is what we muſt explain here in a more particular manner.

Of the diſtinction of law into obligatory, and that of ſimple permiſſion.

A ſovereign has undoubtedly a right to direct the actions of thoſe who are ſubject to him, according to the ends he has in view. In conſequence of this right, he impoſes a neceſſity on them of acting or not acting after a particular manner in certain caſes; and this obligation is the firſt effect of the law. From thence it follows, that all actions, not poſitively commanded or forbidden, are left within the ſphere of our natural liberty; and that the ſovereign is hereby ſuppoſed to grant every body a permiſſion to act in this reſpect as they think proper; and this permiſſion is a ſecond effect of the law. We may therefore diſtinguiſh the law, taken in its full extent, into an obligatory law, and a law of ſimple permiſſion.

The opinion of Grotius and Puffendorf upon this ſubject.

It is true, Grotius*, and after him Puffendorf, are of opinion, that permiſſion is not properly, and of itſelf, an effect or conſequence of the law, but a mere inaction of the legiſlator. † *Whatever things*, ſays Puffendorf, *the law permits, thoſe it neither commands nor forbids, and therefore it really doth nothing at all concerning them.*

* See the Rights of War and Peace, book i. chap. i. § 9.

† See the Law of Nature and Nations, book i. chap. vi. § 15.

But though this different manner of conſidering the thing be not perhaps of any great conſequence, yet Barbeyrac's opinion, ſuch as he has explained it in his notes on the forecited paſſages, appears to be much more exact. A permiſſion ariſing from the legiſlator's ſilence cannot be conſidered as a ſimple inaction. The legiſlator does nothing but with deliberation and wiſdom. If he is ſatisfied with impoſing, only in ſome caſes, an indiſpenſable neceſſity of acting after a certain manner, and does not extend this neceſſity further, it is becauſe he thinks it agreeable to the end he propoſes, to leave his ſubjects at liberty in ſome caſes to do as they pleaſe. Wherefore, the ſilence of the legiſlator imports a poſitive though tacit permiſſion of whatſoever he has not forbidden or commanded, though he might have done it, and would certainly have done it, had he thought proper. Inſomuch that as the forbidden or commanded actions are poſitively regulated by the law, actions permitted are likewiſe poſitively determined by the ſame law, though after their manner and according to the nature of the thing. In fine, whoever determines certain limits, which he declares we ought not to exceed, does hereby point out how far he permits and conſents we ſhould go. Permiſſion therefore is as poſitive an effect of the law as obligation.

The rights which men enjoy in ſociety, are founded on this permiſſion.

VII. This will appear ſtill more evident, if we conſider, that having once ſuppoſed that we all depend on a ſuperior, whoſe will ought to be the univerſal rule of our conduct, the rights attributed to man in this ſtate, by virtue of which he may act ſafely and with impunity, are founded on the expreſs

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or tacit permiſſion received from the ſovereign or the law. Beſides, every body agrees that the permiſſion granted by the law, and the right from thence reſulting, lay other men under an obligation not to reſiſt the perſon that uſes his right, but rather to aſſiſt him in this reſpect, than do him any prejudice. Obligation, therefore, and permiſſion are naturally connected with each other; and this is the effect of the law, which likewiſe authorizes thoſe, who are diſturbed in the exerciſe of their rights, to employ force, or to have recourſe to the ſovereign, in order to remove theſe impediments. Hence it is, that after having mentioned in the definition of law, that it leaves us in certain caſes at liberty to act or not to act, we added, that it ſecures the ſubjects in the full enjoyment of their rights*.

VIII. The nature and end of laws ſhew us their matter or object. The matter of laws in general are all human actions, internal and external; thoughts, and words, as well as deeds; thoſe which relate to another, and thoſe which terminate in the perſon itſelf; ſo far, at leaſt, as the direction of thoſe actions may eſſentially contribute to the particular good of each perſon, to that of ſociety in general, and to the glory of the ſovereign. The matter of laws.

IX. This ſuppoſes naturally the three following conditions. 1. That the things ordained by the law be poſſible to fulfil; for it would be folly, and even cruelty, to require of any perſon, under the leaſt commination of puniſhment, whatever is and always has Internal conditions of a law; that it be poſſible, uſeful, and juſt.

* See chap. viii. § 3.

been above his ſtrength. 2. The law muſt be of ſome utility; for reaſon will never allow any reſtraint to be laid on the liberty of the ſubject, merely for the ſake of the reſtraint, and without any benefit or advantage ariſing to him. 3. In fine, the law muſt be in itſelf juſt; that is, conformable to the order and nature of things, as well as to the conſtitution of man: this is what the very idea of rule requires, which, as we have already obſerved, is the ſame as that of law.

External conditions of law; that it may be made known; and accompanied with a ſanction.

X. To theſe three conditions, which we may call the internal characteriſtics of law, namely, that it be poſſible, juſt, and uſeful, we may add two other conditions, which in ſome meaſure are external; one, that the law be made ſufficiently known; the other, that it be attended with a proper ſanction.

1. It is neceſſary that the laws be ſufficiently notified to the ſubject*; for how could he regulate his actions and motions by thoſe laws, if he had never any knowledge of them? The ſovereign ought therefore to publiſh his laws in a ſolemn, clear, and diſtinct manner. But, after that, it is the ſubject's buſineſs to be acquainted with the will of the ſovereign; and the ignorance or error he may lie under in this reſpect, cannot, generally ſpeaking, be a legitimate excuſe in his favour. This is what the civilians mean, when they lay down as a maxim, †*That ignorance or error in regard to the law is blameable and hurtful.* Were it not ſo, the laws would

* See chap. viii. § 4.

† Regula eſt, juris quidem ignorantiam cuique nocere. Digeſt. lib. 22. tit. 6. leg. 9. pr.

be of no effect, but might always, under a pretext of ignorance, be eluded with impunity.

XI. 2. The next thing requiſite is, that the law be attended with a proper ſanction.

Sanction is that part of the law, which includes the penalty enacted againſt thoſe who tranſgreſs it. With regard to the penalty, it is an evil with which the ſovereign menances thoſe ſubjects who ſhould preſume to violate his laws, and which he actually inflicts, whenever they violate them: and this with a deſign of procuring ſome good; ſuch as to correct the culpable, and to admoniſh the reſt; but ultimately, that his laws being reſpected and obſerved, ſociety ſhould enjoy a ſtate of ſecurity, quiet, and happineſs.

All laws have therefore two eſſential parts: the firſt is the diſpoſition of the law, which expreſſeth the command or prohibition; the ſecond is the ſanction, which pronounces the penalty; and it is the ſanction that gives it the proper and particular force of law. For were the ſovereign contented with merely ordaining or forbidding certain things, without adding any kind of menace; this would be no longer a law preſcribed by authority, but merely a prudent counſel.

It is not however abſolutely neceſſary that the nature or quality of the puniſhment be formally ſpecified in the law; it is ſufficient that the ſovereign declares he will puniſh, reſerving to himſelf the ſpecies and degree of chaſtiſement according to his prudence.*

We

* Ex quo etiam intelligitur omni legi civili annexam eſſe pœnam,

We muſt alſo obſerve, that the evil, which conſtitutes the puniſhment properly ſo called, ought not to be a natural production or a neceſſary conſequence of the action intended to be puniſhed. It ſhould be, as it were, an occaſional evil, and inflicted by the will of the ſovereign. For whatever the action may have bad of itſelf and dangerous in its effects and inevitable conſequences, cannot be reckoned as proceeding from the law, ſince it would equally happen without it. The menaces therefore of the ſovereign muſt, in order to have ſome weight, be inflictive of ſuch puniſhments as differ from the evil that neceſſarily ariſes from the nature of the thing †.

Whether the promiſe of recompence is equally capable, as the commination of puniſhment, to conſtitute the ſanction of law.

XII. It may be aſked, in fine, whether the ſanction of laws may not as well conſiſt in the promiſe of a recompence, as in the commination of puniſhment? I anſwer, that this depends, in general, on the will of the ſovereign, who may uſe either of theſe ways; or even employ them both, according as his prudence directs. But ſince the queſtion is to know, which is the moſt effectual method the ſovereign can uſe, in order to enforce the obſervance of his laws; and ſince it is certain that man is naturally more ſenſibly affected by evil than good, it ſeems more proper to eſtabliſh the ſanction of law

nam, vel explicitè, vel implicitè; nam ubi pœna neque ſcripto, neque exemplo alicujus qui pœnas legis jam tranſgreſſæ dedit, definitur, ibi ſubintelligitur pœnam arbitrariam eſſe, nimirum ex arbitrio pendere legiſlatoris. *Hobbes de Cive, cap.* 14. § 8.

† See Locke's Eſſay on Human Underſtanding, book 2. chap. 28. § 6.

in

in the commination of puniſhment, than in the promiſe of recompence. People are ſeldom induced to violate the law, unleſs it be with the hope of procuring at leaſt ſome apparent good. The beſt way therefore to prevent this deception, is to remove the bait that allures them, and to annex, on the contrary, a real and inevitable evil to diſobedience. Suppoſe, for inſtance, two legiſlators, willing to eſtabliſh the ſame law, propoſed, one of them great rewards, and the other ſevere puniſhments, the latter would undoubtedly diſpoſe men more effectually to compliance than the former. The moſt ſpecious promiſes do not always determine the will; but the view of a rigorous puniſhment ſtaggers and intimidates it*. But if the ſovereign, by a particular effect of his bounty and wiſdom, is willing to join theſe two means, and to enforce the law by a double motive of obſervance; there is then nothing wanting to complete its force, ſince in every reſpect it is a perfect ſanction.

Who thoſe are whom the law obliges. Of diſpenſation.

XIII. The obligation which the laws impoſe, have as great an extent as the right of the ſovereign; and conſequently it may be ſaid in general, that all thoſe who are dependent on the legiſlator, are ſubject to this obligation. But each law in particular obliges thoſe ſubjects only, to whom the ſubject matter may be applied; and this is eaſily known from the very nature of each law, by which the intention of the legiſlator is ſufficiently expreſſed.

* See Puffendorf, Law of Nature and Nations, book i. chap. vi. § 14. with Barbeyrac's notes.

Never-

Nevertheleſs it ſometimes happens, that particular perſons are exempted from the obligation of obſerving the law; and this is what we call diſpenſation, on which we have a few remarks to make.

1. If the legiſlator can intirely abrogate a law, by a much ſtronger reaſon he can ſuſpend the effect thereof, with regard to any particular perſon.

2. But we muſt likewiſe acknowledge, that none but the legiſlator himſelf is inveſted with this power.

3. He never ought to uſe it without very good reaſons, and then he ſhould act with moderation, and according to the rules of equity and prudence. For were he, without diſcretion or choice, to favour too great a number of people with diſpenſations, he would enervate the authority of the law; or were he to refuſe it in caſes perfectly alike, ſo unreaſonable a partiality would certainly be attended with jealouſy and diſcontent.

Of the duration of laws, and how they are aboliſhed.

XIV. As for what concerns the duration of laws, and the manner in which they are aboliſhed, we are to obſerve the following principles.

1. In general the duration of law, as well as its firſt eſtabliſhment, depends on the free will and pleaſure of the ſovereign, who cannot reaſonably tie up his own hands in this reſpect.

2. And yet every law, of itſelf and by its nature, is ſuppoſed perpetual, when it contains nothing in its diſpoſition, or in the circumſtances attending it, that evidently denotes a contrary intention of the legiſlator, or that may induce us reaſonably to preſume that it was only a temporary ordinance. The law is a rule; now every rule is

of

of itſelf perpetual; and, generally ſpeaking, when the ſovereign eſtabliſhes a law, it is not with a deſign to repeal it.

3. But as the ſtate of things may happen to alter in ſuch a manner, that the law, grown uſeleſs or hurtful, can no longer be put into execution; the ſovereign can, and ought, in that caſe, to repeal and aboliſh it. It would be abſurd and pernicious to ſociety, to pretend that laws once enacted ought to ſubſiſt for ever, let what inconveniency ſoever ariſe.

4. This repeal may be made in two different manners, either expreſly or tacitly. For when the ſovereign, well acquainted with the ſtate of things, neglects for a long time to enforce the obſervance of the laws, or formally permits, that affairs relating thereto be regulated in a manner contrary to his diſpoſition; from thence a ſtrong preſumption ariſes of the abrogation of this law, which falls thus of itſelf, though the legiſlator has not expreſly aboliſhed it.

It is plain we have only glanced here upon the general principles. As for the application that ought to be made of them to each ſpecies of laws, it requires ſome modification, purſuant to their different nature. But it is not our buſineſs to enter here into thoſe particulars.

XV. Law may be divided, 1. into divine or human, according as it has God or man for its author. How many ſorts of laws.

2. Divine law may be ſubdivided into two ſorts, namely, natural and poſitive or revealed.

Natural

Natural law is that which ſo neceſſarily agrees with the nature and ſtate of man, that without obſerving its maxims, the peace and happineſs of ſociety can never be preſerved. As this law has an eſſential agreeableneſs with the conſtitution of human nature, the knowledge thereof may be attained merely by the light of reaſon; and hence it is called natural.

Poſitive or revealed law is that which is not founded on the general conſtitution of human nature, but only on the will of God; though in other reſpects this law is eſtabliſhed on very good reaſons, and procures the advantage of thoſe who receive it.

We meet with examples of theſe two ſorts of laws in the ordinances which God gave formerly to the Jews. It is eaſy to diſtinguiſh ſuch as were natural, from thoſe that, being merely ceremonial or political, had no other foundation than the particular will of God, accommodated to the actual ſtate of that people.

With regard to human laws, conſidered ſtrictly as ſuch, viz. as originally proceeding from a ſovereign who preſides over ſociety, they are all poſitive. For though ſome natural laws are made the ſubject of human laws, they do not derive their obligatory force from the human legiſlator; ſince they would oblige all the ſame without any intervention on his part, becauſe they come from God.

Before we leave theſe definitions, we muſt not forget to obſerve, that the ſcience or art of making and explaining laws, and of applying them to human actions, goes by the general name of *Juriſprudence*.

CHAP.

## CHAP. XI.

### *Of the morality of human actions*.*

I. LAW being the rule of human actions, in a comparative view, we obſerve that the latter are either conformable or oppoſite to the former; and this ſort of qualification of our actions in reſpect to the law, is called *morality*. In what the morality of actions conſiſts.

The term of *morality* comes from *mores* or manners. Manners, as we have already obſerved, are the free actions of man, conſidered as ſuſceptible of direction and rule. Thus we call morality the relation of human actions to the law, by which they are directed; and we give the name of moral philoſophy to the collection of thoſe rules by which we are to ſquare our actions.

II. The morality of actions may be conſidered in two different lights: 1. in regard to the manner in which the law diſpoſes of them; and 2. in relation to the conformity or oppoſition of thoſe ſame actions to the law. Actions are, 1. either commanded, or forbidden, or permitted.

In the firſt conſideration, human actions are either commanded, or forbidden, or permitted.

As we are indiſpenſably obliged to do what is commanded, and to abſtain from what is forbidden by a lawful ſuperior, civilians conſider commanded actions as neceſſary, and forbidden actions as im-

* See the Law of Nature and Nations, book i. chap. vii. and the Duties of Man and a Citizen, book i. chap. ii. § 11. &c.

poſſible.

poſſible. Not that man is deprived of a phyſical power of acting contrary to law, and incapable, if he has a mind, of exerciſing this power. But ſince his acting after this manner would be oppoſite to right reaſon, and inconſiſtent with his actual ſtate of dependance; it is to be preſumed that a reaſonable and virtuous man, continuing and acting as ſuch, could not make ſo bad a uſe of his liberty; and this preſumption is in itſelf too reaſonable and honourable for humanity, not to meet with approbation. *Whatever* (ſay the Roman lawyers*) *is injurious to piety, reputation, or modeſty, and in general to good manners, ought to be preſumed impoſſible.*

Remarks on permitted actions.

III. With regard to permitted actions, they are ſuch as the law leaves us at liberty to do, if we think proper †. Upon which we muſt make two or three remarks.

1. We may diſtinguiſh two ſorts of permiſſion; one full and abſolute, which not only gives us a right to do certain things with impunity, but moreover is attended with a poſitive approbation of the legiſlator: The other is an imperfect permiſſion, or a kind of toleration, which implies no approbation but a ſimple impunity.

2. The permiſſion of natural laws always denotes a poſitive approbation of the legiſlator; and whatever happens in conſequence thereof, is innocently

* Nam quæ facta lædunt pietatem, exiſtimationem, verecundiam noſtram, & (ut generaliter dixerim) contra bonos mores fiunt, nec facere nos poſſe credendum eſt. *L.* 15. *D. de condit. Inſtitut.*

† See chap. x. § 5.

done,

done, and without any violation of our duty. For it is evident, that God could not poſitively permit the leaſt thing that is bad in its nature.

3. It is otherwiſe in reſpect to the permiſſion of human laws. We may, indeed, juſtly and with certainty infer, that a ſovereign has not thought proper to forbid or puniſh ſome particular things; but it does not always from thence follow, that he really approves thoſe things, and much leſs that they may be innocently done, and without any breach of duty.

IV. The other manner in which we may view the morality of human actions, is with regard to to their conformity or oppoſition to the law. In this reſpect, actions are divided into good or juſt, bad or unjuſt, and indifferent. 2. Actions are good or juſt, bad or unjuſt, and indifferent.

An action morally good or juſt, is that which in itſelf is exactly conformable to ſome obligatory law, and moreover is attended with the circumſtances and conditions required by the legiſlator.

I ſaid, 1. A *good or juſt action*; for there is properly no difference between the goodneſs and juſtice of actions; and there is no neceſſity to deviate here from the common language, which confounds theſe two ideas. The diſtinction which Puffendorf makes between theſe two qualities is quite arbitrary, and even he himſelf afterwards confounds them *.

* Compare what he ſays in the Law of Nature and Nations, book i. chap. vii. § 7. in the beginning, with § 4. of the ſame chapter.

2. I ſaid, an action *morally good*; becauſe we do not conſider here the intrinſic and natural goodneſs of actions, by virtue of which they redound to the phyſical good of man; but only the relation of agreeableneſs they have to the law, which conſtitutes their moral goodneſs. And though theſe two ſorts of goodneſs are always found inſeparably united in things ordained by natural law, yet we muſt not confound theſe two different relations.

Conditions requiſite to render an action morally good.

V. In fine, to diſtinguiſh the general conditions, whoſe concurrence is neceſſary in order to render an action morally good, with reſpect to the agent; I have added, *that this action ought to be in itſelf exactly conformable to the law, and accompanied moreover with the circumſtances and conditions required by the legiſlator.* And firſt, it is neceſſary that this action ſhould comply exactly, and through all its parts, with the tenor of what the law ordains. For as a right line is that whoſe points correſpond to the rule without the leaſt deviation; in like manner an action, rigorouſly ſpeaking, cannot be juſt, good, or right, unleſs it agrees exactly, and in every reſpect with the law. But even this is not ſufficient; the action muſt be performed alſo purſuant to the manner required and intended by the legiſlator. And in the firſt place, it is neceſſary it be done with a competent knowledge, that is, we muſt know that what we do is conformable to the law: otherwiſe the legiſlator would have no regard for the action, and our labour would be intirely loſt. In the next place, we muſt act with an upright intention and for a good end, namely, to fulfill the views of the legiſlator, and to

pay a due obedience to the law: For if the agent's intention be bad, the action, inſtead of being deemed good, may be imputed to him as vicious. In fine, we ſhould act through a good motive, I mean a principle of reſpect for the ſovereign, of ſubmiſſion to the law, and from a love of our duty; for plain it is, that all theſe conditions are required by the legiſlator.

Of the nature of bad or unjuſt actions.

VI. What has been above affirmed concerning good actions, ſufficiently ſhews us the nature of thoſe which are bad or unjuſt. Theſe are, in general, ſuch as of themſelves, or by their concomitant circumſtances, are contrary to the diſpoſition of an obligatory law, or to the intention of the legiſlator.

There are, therefore, two general ſprings of injuſtice in human actions; one proceeds from the action conſidered in itſelf, and from its manifeſt oppoſition to what is commanded or prohibited by the law. Such as, for example, the murder of an innocent perſon. And all theſe kinds of actions intrinſically bad can never become good, whatever may be in other reſpects the intention or motive of the agent. We cannot employ a criminal action as a lawful means to attain an end in itſelf good; and thus we are to underſtand the common maxim, *evil muſt not be done, that good may come of it.* But an action intrinſically and as to its ſubſtance good, may become bad, if it be accompanied with circumſtances directly contrary to the legiſlator's intention; as for inſtance, if it be done with a bad view, and through a vicious motive. To be liberal and generous towards our fellow-citizens,

is a good and commendable thing in itſelf; but if this generoſity is practiſed merely with ambitious views, in order to become inſenſibly maſter of the commonwealth, and to oppreſs the public liberty; the perverſity of the motive, and the injuſtice of the deſign, render this action criminal.

All juſt actions are equally juſt; but unjuſt actions are more or leſs unjuſt.

VII. All juſt actions are, properly ſpeaking, equally juſt; by reaſon that they have all an exact conformity to the law. It is not the ſame with unjuſt or bad actions; which, according as they are more or leſs oppoſite to the law, are more or leſs vicious; ſimilar in this reſpect to curve lines, which are more or leſs ſo, in proportion as they deviate from the rule. We may therefore be ſeveral ways wanting in our duty. Sometimes people violate the law deliberately, and *with malice prepenſe*; which is undoubtedly the very higheſt degree of iniquity, becauſe this kind of conduct manifeſtly indicates a formal and reflective contempt of the legiſlator and his orders; but ſometimes we are apt to ſin through neglect and inadvertency, which is rather a fault than a crime. Beſides, it is plain that this neglect has its degrees, and may be greater or leſſer, and deſerving of more or leſs cenſure. And as in every thing unſuſceptible of an exact and mathematical meaſure, we may always diſtinguiſh at leaſt three degrees, namely, two extremes and a middle: Hence the civilians diſtinguiſh three degrees of fault or negligence; a groſs fault, a ſlight one, and a very ſlight one. It is ſufficient to have mentioned theſe principles, the explication and diſtinct account whereof will naturally take place,

when we come to the particular queſtions relating to them.

Eſſential character of unjuſt actions.

VIII. But we muſt carefully obſerve, that what eſſentially conſtitutes the nature of an unjuſt action, is its direct oppoſition or contrariety to the diſpoſition of the law, or to the intention of the legiſlator; which produces an intrinſic defect in the matter or form of that action. For though in order to render an action morally good, it is neceſſary, as we have already obſerved, that it be intirely conformable to the law, with reſpect as well to the ſubſtance, as to the manner and circumſtances; yet we muſt not from thence conclude, that the defect of ſome of thoſe conditions always renders an action poſitively bad or criminal. To produce this effect, there muſt be a direct oppoſition, or formal contrariety between the action and the law; a ſimple defect of conformity being inſufficient for that purpoſe. This defect is, indeed, ſufficient to render an action not poſitively good or juſt; however, it does not become therefore bad, but only indifferent. For example, if we perform an action good in itſelf, without knowing for what reaſon, or even that it is commanded by the law; or if we act through a different motive from that preſcribed by the law, but in itſelf innocent and not vicious; the action is reputed neither good nor bad, but merely indifferent.

Of indifferent actions.

IX. There is therefore ſuch a thing as indifferent actions, which hold a middle rank, as it were, between juſt and unjuſt. Theſe are ſuch as are neither

commanded nor prohibited, but which the law leaves us at liberty to do or to omit, according as we think proper. That is, thoſe actions are referred to a law of ſimple permiſſion, and not to an obligatory law.

Now that ſuch actions there are, is what no one can reaſonably queſtion. For what a number of things are there, which being neither commanded nor forbidden by any law, whether divine or human, have conſequently nothing obligatory in their nature, but are left to our liberty, to do or to omit, juſt as we think proper? It is therefore an idle ſubtlety in ſchoolmen to pretend that an action cannot be indifferent, unleſs it be in an abſtract conſideration, as ſtript of all the particular circumſtances of perſon, time, place, intention, and manner. An action diveſted of all theſe circumſtances, is a mere *Ens rationis*; and if there be really any indifferent actions, as undoubtedly there are, they muſt be relative to particular circumſtances of perſon, time, and place, &c.

Diviſion of good and bad actions.

X. Good or bad actions may be ranged under different claſſes, according to the object to which they relate. Good actions referred to God, are compriſed under the name of *Piety*. Thoſe which relate to ourſelves, are diſtinguiſhed by the words, *Wiſdom*, *Temperance*, *Moderation*. Thoſe which concern other men, are included under the terms of *Juſtice* and *Benevolence*. We only anticipate here the mentioning of this diſtinction, becauſe we muſt return to it again when we come to treat of natural law. The ſame diſtinction is applicable to bad actions,

tions, which belong either to *Impiety*, *Intemperance*, or *Injuſtice*.

Of juſtice, and its different kinds.

XI. It is common to propoſe ſeveral diviſions of juſtice. That we may not be ſilent on this article, we ſhall obſerve,

1. That juſtice may, in general, be divided into perfect or rigorous, and imperfect or not rigorous. The former is that by which we perform towards our neighbour whatever is due to him in virtue of a perfect or rigorous right, that is, the execution of which he may demand by forcible means, unleſs we ſatisfy him freely and with a good will; and it is in this ſtrict ſenſe that the word *Juſtice* is generally underſtood. The ſecond is that by which we perform towards another the duties owing to him only in virtue of an imperfect and non-rigorous obligation, which cannot be inſiſted upon by violent methods; but the fulfilling of them is left to each perſon's honour and conſcience*. Theſe kinds of duties are generally comprehended under the appellations of humanity, charity, or benevolence, in oppoſition to rigorous juſtice, or juſtice properly ſo called. This diviſion of juſtice coincides with that of Grotius, into *expletive* and *attributive*.

2. We might ſubdivide rigorous juſtice into that which is exerciſed between equals, and that which takes place between ſuperior and inferior†. The former contains as many different ſpecies as there are

* See chap. vii. § 8.

† This amounts to the ſame thing very near, as the *Jus rectorium* and *æquatorium* of Grotius. Book i. chap. 1. § 3. num. 3.

duties, which one man may in rigour require of every other man, conſidered as ſuch, and one citizen of every fellow-citizen. The latter includes as many ſpecies as there are different ſocieties, where ſome command, and others obey *.

3. There are other diviſions of juſtice, but ſuch as ſeem uſeleſs, and far from being exact. For example, that of univerſal and particular juſtice, taken in the manner as Puffendorf explains it, appears incorrect, inaſmuch as one of the members of the diviſion is included in the other †. The ſubdiviſion of particular juſtice into diſtributive and commutative, is incomplete; becauſe it includes only what is due to another, by virtue of ſome pact or engagement, notwithſtanding there are many things which our neighbour may require of us in rigour, without any regard to pact or convention. And we may obſerve in general, by reading what Grotius and Puffendorf have wrote concerning this ſubject, that they are at a loſs themſelves, to give a clear and exact idea of theſe different kinds of juſtice. Hence it is manifeſt, that we had better wave all theſe ſcholaſtic diviſions, contrived in imitation of thoſe of Ariſtotle, and abide by our firſt diviſion. And indeed, it is only out of reſpect to the common opinion, that we have taken any notice thereof ‡.

* See Buddæus, Elementa philoſ. pract. part ii. cap. ii. § 46.

† Law of Nature and Nations, book i. chap. viii. § 8. And the Duties of Man and a Citizen, book i. chap. ii. § 14. with Barbeyrac's notes.

‡ See Grotius, Rights of War and Peace, book i. chap. i. § 8. and Puffendorf, Law of Nature and Nations, book i. chap. vii. § 9. 10, 11, 12, with Barbeyrac's notes.

XII. Be-

XII. Beſides what we may call the quality of moral actions, they have likewiſe a kind of quantity, which, by comparing the good actions to one another, as alſo the bad in the ſame manner, leads us to a ſort of relative eſtimation, in order to mark the greater or leſſer degree of evil to be found in each. We ſhall give here the principles neceſſary for this eſtimation. Of the relative eſtimations of moral actions.

1. Theſe actions may be conſidered with regard to their object. The nobler the object, the higher the excellence of the good action done towards this object; and a bad action, on the contrary, becomes more criminal.

2. In reſpect to the quality and ſtate of the agent. Thus a favour or benefit received of an enemy, excels that which is conferred upon us by a friend. And, on the contrary, an injury done us by a friend, is more ſenſible, and more atrocious, than that which is committed by an enemy.

3. In reference to the very nature of the action, according as there is more or leſs trouble to perform. The more a good action is difficult, ſuppoſing every thing elſe equal, the more worthy it is of praiſe and admiration. But the eaſier it is to abſtain from a bad action, the more it is blameable and enormous in compariſon to another of the ſame ſpecies.

4. In relation to the effects and conſequences of the action. An action is ſo much the better or worſe, in proportion as we foreſee that its conſequences muſt be more or leſs advantageous or hurtful,

5. We

5. We may add the circumſtances of time, place, &c. which are alſo capable of making the good or bad actions ſurpaſs one another in excellence or badneſs. We have borrowed theſe remarks from one of Barbeyrac's notes on Puffendorf *.

Morality is applicable to perſons as well as actions.

XIII. Let us obſerve, in fine, that morality is attributed to perſons as well as actions; and as actions are good or bad, juſt or unjuſt, we ſay likewiſe of men, that they are good or bad, virtuous or vicious.

A virtuous man is he that has a habit of acting conformably to the laws and his duty. A vicious man is one that has the oppoſite habit.

Virtue therefore conſiſts in a habit of acting according to the laws; and vice in the contrary habit.

I ſaid that virtue and vice are habits. Hence to judge properly of theſe two characters, we ſhould not ſtop at ſome particular action; we ought to conſider the whole ſeries of the life and ordinary conduct of man. We ſhould not therefore rank among the number of vicious men, thoſe who through weakneſs, or otherwiſe, have been ſometimes induced to commit a bad action; as on the other hand, thoſe who have done a few acts of virtue, do not merit the title of honeſt men. There is no ſuch thing to be found in this world as virtue in every reſpect complete; and the weakneſs inſeparable from man, requires we ſhould not judge him

* See the Law of Nature and Nations, book i. chap. viii. § 5. note 1.

with

with full rigour. Since it is allowed that a virtuous man may, through weakneſs and ſurprize, commit ſome unjuſt action; ſo it is but right we ſhould likewiſe allow, that a man who has contracted ſeveral vicious habits, may notwithſtanding, in particular caſes, do ſome good actions, acknowledged and performed as ſuch. Let us not ſuppoſe men worſe than they really are, but take care to diſtinguiſh the ſeveral degrees of iniquity and vice, as well as thoſe of probity and virtue.

*The* END *of the* FIRST PART.

THE

THE

# PRINCIPLES

OF

# NATURAL LAW.

## PART II.

### Of the LAW of NATURE.

### CHAP. I.

*In what the Law of Nature conſiſts, and that there is ſuch a thing. Firſt conſiderations drawn from the exiſtence of God and his authority over us.*

I. AFTER having ſettled the general principles of law, our buſineſs is now to apply them to natural law in particular. The queſtions we have to examine in this ſecond part are of no leſs importance than to know, whether man, by his nature and conſtitution, is really ſubject to laws properly ſo called? What are theſe laws? Subject of this ſecond part.

laws? Who is the ſuperior that impoſes them? By what method or means is it poſſible to know them? From whence reſults the obligation of obſerving them? What conſequence may follow from our negligence in this reſpect? And, in fine, what advantage on the contrary may ariſe from the obſervance of theſe laws?

II. Let us begin with a proper definition of the terms. By natural law we underſtand, a law that God impoſes on all men, and which they are able to diſcover and know by the ſole light of reaſon, and by attentively conſidering their ſtate and nature.

Natural law is likewiſe taken for the ſyſtem, aſſemblage, or body of the laws of nature.

Natural juriſprudence is the art of attaining to the knowledge of the laws of nature, of explaining and applying them to human actions.

Whether there are any natural laws.

III. But whether there be really any natural laws, is the firſt queſtion that preſents itſelf here to our inquiry. In order to make a proper anſwer, we muſt aſcend to the principles of natural theology, as being the firſt and true foundation of the law of nature. For when we are aſked, whether there are any natural laws, this queſtion cannot be reſolved, but by examining the three following articles. 1. Whether there is a God? 2. If there is a God, whether he has a right to impoſe laws on man? 3. Whether God actually exerciſes his right in this reſpect, by really giving us laws, and requiring we ſhould ſquare thereby our actions? Theſe three points will furniſh the ſubject of this and the following chapters.

IV. The

IV. The exiſtence of God, that is, of a firſt, intelligent, and ſelf-exiſtent being, on whom all things depend as on their firſt cauſe, and who depends himſelf on no one; the exiſtence, I ſay, of ſuch a being, is one of thoſe truths that ſhew themſelves to us at the firſt glance. We have only to attend to the evident and ſenſible proofs, that preſent themſelves to us, as it were, from all parts. Of the exiſtence of God.

The chain and ſubordination of cauſes among themſelves, which neceſſarily requires we ſhould fix on a firſt cauſe; the neceſſity of acknowledging a firſt mover; the admirable ſtructure and order of the univerſe; are all ſo many demonſtrations of the exiſtence of God, within the reach of every capacity. Let us unfold them in a few words.

V. 1 We behold an infinite number of objects, which form all together the aſſemblage we call the univerſe. Something therefore muſt have always exiſted. For were we to ſuppoſe a time in which there was abſolutely nothing, it is evident that nothing could have ever exiſted; becauſe whatſoever has a beginning, muſt have a cauſe of its exiſtence; ſince nothing can produce nothing. It muſt be therefore acknowledged that there is ſome eternal being, who exiſts neceſſarily and of himſelf; for he can be indebted to no one elſe for his origin; and it implies a contradiction that ſuch a being does not exiſt. First proof. The neceſſity of a ſelf-exiſtent and intelligent being.

Moreover, this eternal being, who neceſſarily and of himſelf ſubſiſts, is endued with reaſon and underſtanding. For to purſue the ſame manner of arguing, were we to ſuppoſe a time in which there was nothing but inanimate beings, it would have been impoſ-

impoſſible for intelligent beings, ſuch as we now behold, ever to exiſt. Intellection can no more proceed from a blind and unintelligent cauſe, than a being, of any kind whatſoever, can come from nothing. There muſt therefore have always exiſted a father of ſpiritual beings, an eternal mind, the ſource from whence all others derive their exiſtence. Let what ſyſtem ſoever be adopted concerning the nature and origin of the ſoul, our proof ſubſiſts ſtill in its full force. Were it even to be ſuppoſed that the cogitative part of man is no more than the effect of a certain motion or modification of matter; yet we ſhould ſtill want to know how matter acquired this activity, which is not eſſential to it, and this particular and ſo much admired organization, which it cannot impart to itſelf. We ſhould inquire, who is it that has modified the body in a manner proper to produce ſuch wonderful operations as thoſe of intellection, which reflects, which acts on the very body itſelf with command, which ſurveys the earth, and meaſures the heavens, recollects paſt tranſactions, and extends its views to futurity. Such a maſter-piece muſt come from the hands of an intelligent cauſe; wherefore it is abſolutely neceſſary to acknowledge a firſt, eternal, and intelligent being.

We muſt not ſeek for this being in this univerſe.

VI. An eternal ſpirit, who has within himſelf the principle of his own exiſtence, and of all his faculties, can be neither changed nor deſtroyed; neither dependent nor limited; he ſhould even be inveſted with infinite perfection, ſufficient to render him the ſole and firſt cauſe of all, ſo that we may have no occaſion to ſeek for any other.

But

But does not (ſome will aſk) this quality of an eternal and intelligent being, belong to matter itſelf, to the viſible world, or to ſome of the parts thereof?

I anſwer, that this ſuppoſition is abſolutely contrary to all our ideas. Matter is not eſſentially and of itſelf intelligent: nor can it be ſuppoſed to acquire intellection but by a particular modification received from a cauſe ſupremely intelligent. Now this firſt cauſe cannot have ſuch a modification from any other being; for he thinks eſſentially and of himſelf; wherefore he cannot be a material being. Beſides, as all the parts of the univerſe are variable and dependent, how is it poſſible to reconcile this with the idea of an infinite and all perfect being?

As for what relates to man, his dependance and weakneſs are much more ſenſible than thoſe of other creatures. Since he has no life of himſelf, he cannot be the efficient cauſe of the exiſtence of others. He is unacquainted with the ſtructure of his own body, and with the principle of life; incapable of diſcovering in what manner motions are connected with ideas, and which is the proper ſpring of the empire of the will. We muſt therefore look out for an efficient, primitive, and original cauſe of mankind, beyond the human chain, be it ſuppoſed ever ſo long; we muſt trace the cauſe of each part of the world beyond this material and viſible world.

VII. 2. After this firſt proof drawn from the neceſſity of a firſt, eternal, and intelligent being, diſtinct from matter; we proceed to a ſecond, which ſhews us the Deity in a more ſenſible manner, and more within the reach of common capacities. The

Second proof. The neceſſity of a firſt mover.

proof I mean, is the contemplation of this viſible world, wherein we perceive a motion and order, which matter has not of itſelf, and muſt therefore receive from ſome other being.

Motion or active force is not an eſſential quality of body: extenſion is of itſelf rather a paſſive being; it is eaſily conceived at reſt, and if it has any motion, we may well conceive it may loſe it without being ſtript of its exiſtence; it is a quality or ſtate that paſſes, and is accidentally communicated from one body to another. The firſt impreſſion muſt therefore proceed from an extrinſic cauſe; and as Ariſtotle has well expreſſed it, * *The firſt mover of bodies muſt not be moveable himſelf, muſt not be a body.* This has been alſo agreed to by Hobbes. † *But the acknowledging*, ſays he, *of one God eternal, infinite, and omnipotent, may more eaſily be derived, from the deſire men have to know the cauſes of natural bodies, and their ſeveral virtues and operations, than from the fear of what was to befall them in time to come. For he that from any effect he ſeeth come to paſs, ſhould reaſon to the next and immediate cauſe thereof, and from thence to the cauſe of that cauſe, and plunge himſelf profoundly in the purſuit of cauſes; ſhall at laſt come to this, that there muſt be (as even the heathen philoſophers confeſſed) one firſt mover; that is, a firſt and eternal cauſe of all things; which is that which men mean by the name of God.*

Third proof. The ſtructure, order, and beauty of the univerſe.

VIII. 3. But if matter has not been able to move of itſelf, much leſs was it capable to move to the exact

* *Ariſtot. Metaphyſ.*

† Leviathan, chap. xii. p. 53. edit. 1651.

exact degree, and with all the determinations, neceſſary to form ſuch a world as we behold, rather than a confuſed chaos.

In fact, let us only caſt our eyes on this univerſe, and we ſhall every where diſcover, even at the firſt glance, an admirable beauty, regularity, and order; and this admiration will increaſe in proportion, as in ſearching more cloſely into nature, we enter into the particulars of the ſtructure, proportion, and uſe of each part. For then we ſhall clearly ſee, that every thing is relative to a certain end, and that theſe particular ends, though infinitely varied among themſelves, are ſo dextrouſly managed and combined, as to conſpire all to a general deſign. Notwithſtanding this amazing diverſity of creatures, there is no confuſion; we behold ſeveral thouſand different ſpecies, which preſerve their diſtinct form and qualities. The parts of the univerſe are proportioned and balanced, in order to preſerve a general harmony; and each of thoſe parts has exactly its proper figure, proportion, ſituation, and motion, either to produce its particular effect, or to form a beautiful whole.

It is evident therefore, that there is a deſign, a choice, a viſible reaſon in all the works of nature; and conſequently there are marks of wiſdom and underſtanding, obvious, as it were, even to our very ſenſes.

IX. Though there have been ſome philoſophers who have attributed all theſe phænomena to chance, yet this is ſo ridiculous a thought, that I queſtion whether a more extravagant chimera ever entered into the mind of man. Is it poſſible for any one

The world is not the effect of chance.

to perſuade himſelf ſeriouſly, that the different parts of matter having been ſet in ſome unaccountable manner in motion, produced of themſelves the heavens, the ſtars, the earth, the plants, and even animals and men, and whatever is moſt regular in the organization? A man that would paſs the like judgment on the leaſt edifice, on a book or picture, would be looked upon as a mad extravagant perſon. How much more ſhocking is it to common ſenſe, to attribute to chance ſo vaſt a work, and ſo wonderful a compoſition as this univerſe?

It is not eternal.

X. It would be equally frivolous to alledge the eternity of the world, in order to exclude a firſt intelligent cauſe. For beſides the marks of novelty we meet with in the hiſtory of mankind, as the origin of nations and empires, and the invention of arts and ſciences, &c. beſides the aſſurance we have from the moſt general and moſt ancient tradition that the world has had a beginning (a tradition which is of great weight in regard to a matter of fact, like this); beſides, I ſay, all this, the very nature of the thing does not allow us to admit of this hypotheſis no more than that of chance. For the queſtion is ſtill to explain whence comes this beautiful order, this regular ſtructure and deſign, in a word, whence proceed thoſe marks of reaſon and wiſdom that are ſo viſibly diſplayed in all parts of the univerſe. To ſay that it has been always ſo, without the intervention of an intelligent cauſe, does not explain the thing, but leaves us in the ſame embarraſſment, and advances the ſame abſurdity as thoſe

who a while ago were ſpeaking to us of chance. For this is in reality telling us that whatever we behold throughout the univerſe, is blindly ranged, without deſign, choice, cauſe, reaſon, or underſtanding. Hence the principal abſurdity of the hypotheſis of chance, occurs likewiſe in this ſyſtem; with this difference only, that by eſtabliſhing the eternity of the world, they ſuppoſe a chance that from all eternity hit upon order; whereas thoſe who attribute the formation of the world to the fortuitous junction of its parts, ſuppoſe that chance did not ſucceed till a certain time, when it fell in at length with order after an infinite number of trials and fruitleſs combinations. Both acknowledge therefore no other cauſe but chance, or properly ſpeaking they acknowledge none at all; for chance is no real cauſe, it is a word that cannot account for a real effect, ſuch as the arrangement of the univerſe.

It would not be a difficult matter to carry theſe proofs to a much greater length, and even to increaſe them with an additional number. But this may ſuffice for a work of this kind; and the little we have ſaid, intitles us, methinks, to eſtabliſh the exiſtence of a *Firſt Cauſe*, or of a *Creator*, as an inconteſtable truth, that may ſerve henceforward for the baſis of all our reaſonings.

God has a right to preſcribe laws to man.

XI. As ſoon as we have acknowledged a Creator, it is evident, that he has a ſupreme right to lay his commands on man, to preſcribe rules of conduct to him, and to ſubject him to laws; and it is no leſs evident, that man on his ſide finds himſelf, by his natural conſtitution, under an ob-

ligation of ſubjecting his actions to the will of this ſupreme Being.

We have already ſhewn *, that the true foundation of ſovereignty in the perſon of the ſovereign, is power united with wiſdom and goodneſs; and that, on the other hand, weakneſs and wants in the ſubjects, are the natural cauſe of dependance. We have only therefore to ſee, whether all theſe qualities of ſovereign are to be found in God; and whether men, on their ſide, are in a ſtate of infirmity and wants, ſo as to depend neceſſarily on him for their happineſs.

This is a conſequence of his power, wiſdom, and goodneſs.

XII. It is beyond doubt, that he who exiſts neceſſarily and on himſelf, and has created the univerſe, muſt be inveſted with an infinite power. As he has given exiſtence to all things by his own will, he may likewiſe preſerve, annihilate, or change them as he pleaſes.

But his wiſdom is equal to his power. Having made every thing, he muſt know every thing, as well the cauſes as the effects from thence reſulting. We ſee beſides in all his works the moſt excellent ends, and a choice of the moſt proper means to attain them; in ſhort, they all bear, as it were, the ſtamp of wiſdom.

XIII. Reaſon informs us, that God is a being eſſentially good; a perfection which ſeems to flow naturally from his wiſdom and power. For how is it poſſible for a being, who of his nature is infinitely wiſe and powerful, to have any inclination to hurt? Surely no ſort of reaſon can ever determine him to it. Malice, cruelty, and injuſtice, are always a con-

* See part i. chap. ix.

ſequence

ſequence of ignorance or weakneſs. Let man therefore conſider but never ſo little the things which ſurround him, and reflect on his own conſtitution, he will diſcover both within and without himſelf the benevolent hand of his Creator, who treats him like a father. It is from God we hold our life and reaſon; it is he that ſupplies moſt abundantly our wants, adding the uſeful to the neceſſary, and the agreeable to the uſeful. Philoſophers obſerve, that whatever contributes to our preſervation, has been arrayed with ſome agreeable quality. * Nouriſhment, repoſe, action, heat, cold, in ſhort, whatever is uſeful to us, pleaſes us in its turn, and ſo long as it is uſeful. Should it ceaſe to be ſo, becauſe things are carried to a dangerous exceſs, we have notice therefore by an oppoſite ſenſation. The allurement of pleaſure invites us to uſe them when they are neceſſary for our wants; diſreliſh and laſſitude induce us to abſtain from them, when they are likely to hurt us. Such is the happy and ſweet œconomy of nature, which annexes a pleaſure to the moderate exerciſe of our ſenſes and faculties, inſomuch that whatever ſurrounds us becomes a ſource of ſatisfaction, when we know how to uſe it with diſcretion. What can be more magnificent, for example, than this great theatre of the world in which we live, and this glittering decoration of heaven and earth, exhibiting a thouſand agreeable objects to our view? What

* See an excellent treatiſe lately publiſhed, (at *Geneva*, for *Barillot* and Son, in 12mo, 1747.) intitled, THE THEORY OF AGREEABLE SENSATIONS; where, after pointing out the rules that nature follows in the diſtribution of pleaſure, the principles of natural theology and ethics are eſtabliſhed.

ſatisfaction does not the mind receive from the ſciences, by which it is exerciſed, inlarged, and improved? What conveniencies do not we draw from human induſtry? What advantages do not we derive from an intercourſe with our equals! What charms in their converſation! What ſweetneſs in friendſhip, and the other connexions of the heart! When we avoid the exceſs and abuſe of things, the greateſt part of human life abounds with agreeable ſenſations. And if to this we add, that the laws which God gives us, tend, as hereafter we ſhall ſee, to perfect our nature, to prevent all kind of abuſe, and to confine us to a moderate uſe of the good things of life, on which the preſervation, excellence, and happineſs, as well public as private, of man depends; what more is there wanting to convince us, that the goodneſs of God is not inferior either to his wiſdom or power?

We have therefore a ſuperior undoubtedly inveſted with all the qualities neceſſary to found the moſt legitimate and moſt extenſive authority: And ſince on our ſide experience ſhews us, that we are weak and ſubject to divers wants; and ſince every thing we have, we have from him, and he is able either to augment or diminiſh our enjoyments; it is evident, that nothing is wanting here to eſtabliſh on the one ſide the abſolute ſovereignty of God, and on the other our unlimited dependance.

CHAP.

## CHAP. II.

*That God, in conſequence of his authority over us, has actually thought proper to preſcribe to us laws or rules of conduct.*

God exerciſes his authority over us, by preſcribing laws to us.

I. TO prove the exiſtence of God, and our dependance in reſpect to him, is eſtabliſhing the right he has of preſcribing laws to man. But this is not ſufficient; the queſtion is, whether he has actually thought proper to exerciſe this right. He can undoubtedly impoſe laws on us; but has he really done it? and though we depend on him for our life, and for our phyſical faculties, has he not left us in a ſtate of independance in reſpect to the moral uſe to which we are to apply them? This is the third and capital point we have ſtill left to examine.

First proof, drawn from the very relations of which we have been ſpeaking.

II. 1. We have made ſome progreſs already in this reſearch, by diſcovering all the circumſtances neceſſary to eſtabliſh an actual legiſlature. On the one ſide we find a ſuperior, who by his nature is poſſeſſed in the very higheſt degree of all the conditions requiſite to eſtabliſh a legitimate authority; and on the other we behold man, who is God's creature, endowed with underſtanding and liberty, capable of acting with knowledge and choice, ſenſible of pleaſure and pain, ſuſceptible of good and evil, of rewards and puniſhments. Such an aptitude of giving and receiving laws cannot be uſeleſs. This concurrence of relations and circumſtances undoubtedly denotes an end, and muſt have ſome

ſome effect; juſt as the particular organization of the eye ſhews we are deſtined to ſee the light. Why ſhould God have made us exactly fit to receive laws, if he intended none for us? This would be creating ſo many idle and uſeleſs faculties. It is therefore not only poſſible, but very probable, that our deſtination in general is ſuch, unleſs the contrary ſhould appear from much ſtronger reaſons. Now inſtead of there being any reaſon to deſtroy this firſt preſumption, we ſhall ſee that every thing tends to confirm it.

Second proof, drawn from the end which God propoſed to himſelf with reſpect to man, and from the neceſſity of moral laws, to accompliſh this end.

III. 2. When we conſider the beautiful order which the ſupreme wiſdom has eſtabliſhed in the phyſical world, it is impoſſible to perſuade ourſelves, that he has abandoned the ſpiritual or moral world to chance and diſorder. Reaſon, on the contrary, tells us, that a wiſe being propoſes to himſelf a reaſonable end in every thing he does, and that he uſes all the neceſſary means to attain it. The end which God had in view with regard to his creatures, and particularly with reſpect to man, cannot be any other, on the one ſide, than his glory; and on the other, the perfection and happineſs of his creatures, ſo far as their nature or conſtitution will admit. Theſe two views, ſo worthy of the Creator, are perfectly combined. For the glory of God conſiſts in manifeſting his perfections, his power, his goodneſs, wiſdom, and juſtice; and theſe virtues are nothing elſe but the love of order and of the good of the whole. Thus a being abſolutely perfect and ſupremely happy, willing to conduct man to that ſtate of order and happineſs which ſuits his nature, cannot but be willing at the ſame time to employ whatever is neceſſary for ſuch

ſuch an end; and conſequently he muſt approve of thoſe means that are proper, and diſapprove of ſuch as are improper for attaining it. Had the conſtitution of man been merely phyſical or mechanical, God himſelf would have done whatever is expedient for his work: But man being a free and intelligent creature, capable of diſcernment and choice; the means which the Deity uſes to conduct him to his end, ought to be proportioned to his nature, that is, ſuch as man may engage in, and concur with, by his own actions.

Now as all means are not equally fit to conduct us to a certain end, all human actions cannot therefore be indifferent. Plain it is, that every action, contrary to the ends which God has propoſed, is not agreeable to the divine Majeſty; and that he approves, on the contrary, thoſe which of themſelves are proper to promote his ends. Since there is a choice to be made, who can queſtion but our Creator is willing we ſhould take the right road; and that, inſtead of acting fortuitouſly and raſhly, we ſhould behave like rational creatures, by exerciſing our liberty, and the other faculties he has given us, in the manner moſt agreeable to our ſtate and deſtination, in order to promote his views, and to advance our own happineſs, together with that of our fellow-creatures?

IV. Theſe conſiderations aſſume a new force, when we attend to the natural conſequences of the oppoſite ſyſtem. What would become of man and ſociety, were every one to be ſo far maſter of his actions, as to do every thing he liſted, without having any other

Confirmation of the preceding proofs.

other principle of conduct than caprice or paſſion? Let us ſuppoſe, that God abandoning us to ourſelves, had not actually preſcribed any rules of life, or ſubjected us to laws; moſt of our talents and faculties would be of no manner of uſe to us. To what purpoſe would it be for man to have the light of reaſon, were he to follow only the impulſe of inſtinct, without watching over his conduct? What would it avail him to have the power of ſuſpending his judgment, were he to yield ſtupidly to the firſt impreſſions? And of what ſervice would reflection be, were he neither to chuſe nor deliberate; and were he, inſtead of liſtening to the counſels of prudence, to be hurried away by blind inclinations? Theſe faculties, which form the excellence and dignity of our nature, would not only be rendered hereby entirely frivolous, but, moreover, would become prejudicial even by their excellence; for the higher and nobler the faculty is, the more the abuſe of it proves dangerous.

This would be not only a great misfortune for man conſidered alone, and in reſpect to himſelf; but would ſtill prove a greater evil to him when viewed in the ſtate of ſociety. For this more than any other ſtate requires laws, to the end that each perſon may ſet limits to his pretenſions, without invading another man's right. Were it otherwiſe, licentiouſneſs muſt be the conſequence of independance. To leave men abandoned to themſelves, is leaving an open field to the paſſions, and paving the way for injuſtice, violence, perfidy and cruelty. Take away natural laws, and that moral tie which ſupports juſtice and honeſty in a whole nation, and eſtabliſhes

alſo

alſo particular duties either in families, or in the other relations of life; man would be then the moſt ſavage and ferocious of all animals. The more dexterous and artful he is, the more dangerous he would prove to his equals; his dexterity would degenerate into craft, and his art into malice. Then we ſhould be diveſted of all the advantages and ſweets of ſociety; and thrown into a ſtate of war and libertiniſm.

Third proof drawn from the goodneſs of God.

V. 3. Were any one to ſay, that man himſelf would not fail to remedy theſe diſorders, by eſtabliſhing laws in ſociety; (beſide that human laws would have very little force were they not founded on the principles of conſcience;) this remark ſhews there is a neceſſity for laws in general, whereby we gain our cauſe. For if it be agreeable to the order of reaſon that men ſhould eſtabliſh a rule of life among themſelves, in order to be ſcreened from the evils they might apprehend from one another, and to procure thoſe advantages that are capable of forming their private and public happineſs; this alone ought to convince us, that the Creator, infinitely wiſer and better than ourſelves, muſt have undoubtedly purſued the ſame method. A good parent that takes care to direct his children by his authority and counſels, is able to preſerve peace and order in his family; is it then to be imagined, that the common father of mankind ſhould neglect to give us the like aſſiſtance? and if a wiſe ſovereign has nothing ſo much at heart as to prevent licentiouſneſs by ſalutary regulations; how can any one believe that God, who is a much greater friend to man than man is to his equals, has left all mankind without direction and guide,

guide, even on the moſt important matters, on which our whole happineſs depends? Such a ſyſtem would be no leſs contrary to the goodneſs than to the wiſdom of God. We muſt therefore have recourſe to other ideas, and conclude that the Creator having, through a pure effect of his bounty, created man for happineſs, and having implanted in him an inſuperable inclination to felicity, ſubjecting him at the ſame time to live in ſociety, he muſt have given him alſo ſuch principles as are capable of inſpiring him with a love of order, and rules to point out the means of procuring and attaining it.

Fourth proof, drawn from the principles of conduct which we actually find within ourſelves.

VI. 4. But let us enter into ourſelves, and we ſhall actually find, that what we ought to expect in this reſpect from the divine wiſdom and goodneſs, is dictated by right reaſon, and by the principles engraved in our hearts.

If there be any ſpeculative truths that are evident, or if there be any certain axioms that ſerve as a baſis to ſciences; there is no leſs certainty in ſome principles that are laid down in order to direct our conduct, and to ſerve as the foundation of morality. For example; *That the all-wiſe and all bountiful Creator merits the reſpects of the creature: That man ought to ſeek his own happineſs: That we ſhould prefer the greater to the leſſer evil: That a benefit deſerves a grateful acknowledgment: That the ſtate of order excels that of diſorder, &c.* Thoſe maxims, and others of the ſame ſort, differ very little in evidence from theſe, *The whole is greater than its part; or the cauſe precedes the effect, &c.* Both are dictated by pure reaſon; and hence we feel ourſelves

forced, as it were, to give our aſſent to them. Theſe general principles are ſeldom conteſted; if there be any diſpute, it relates only to their application and conſequences. But ſo ſoon as the truth of thoſe principles is diſcovered, their conſequences, whether immediate or remote, are entirely as certain, provided they be well connected; the whole buſineſs being to deduce them by a train of cloſe and concluſive argumentations.

VII. In order to be ſenſible of the influence which ſuch principles, with their legitimate conſequences, ought to have over our conduct, we have only to recollect what has been already ſaid in the firſt part of this work *, concerning the obligation we are under of following the dictates of reaſon. As it would be abſurd in ſpeculative matters, to ſpeak and judge otherwiſe than according to that light which makes us diſcern truth from falſhood; ſo it would be no leſs prepoſterous to deviate in our conduct from thoſe certain maxims which enable us to diſcern good from evil. When once it is manifeſt, that a particular manner of acting is ſuitable to our nature, and to the great end we have in view; and that another, on the contrary, does not ſuit our conſtitution or happineſs; it follows, that man, as a free and rational creature, ought to be very attentive to this difference, and to take his reſolutions accordingly. He is obliged to it by the very nature of the thing; becauſe it is abſolutely neceſſary when a perſon is deſirous of the end, to be deſirous alſo of the means; and he is obliged to it moreover, becauſe he cannot miſtake the intention and will of his ſuperior in this reſpect.

Theſe principles are obligatory of themſelves.

* Chap. vi.

VIII. In

They are obligatory by the divine will, and thus become real laws.

VIII. In effect God being the author of the nature of things, and of our conſtitution, if, in conſequence of this nature and conſtitution, we are reaſonably determined to judge after a certain manner, and to act according to our judgment, the Creator ſufficiently manifeſts his intention, ſo that we can no longer be ignorant of his will. The language therefore of reaſon is that of God himſelf. When our reaſon tells us ſo clearly, *that we muſt not return evil for good*, it is God himſelf, who by this internal oracle gives us to underſtand what is good and juſt, what is agreeable to him and ſuitable to ourſelves. We ſaid that it is not at all probable, that the good and wiſe Creator ſhould have abandoned man to himſelf, without a guide and direction for his conduct. We have here a direction that comes from him; and ſince he is inveſted in the very higheſt degree, as we have already obſerved, with the perfections on which a legitimate ſuperiority is founded, who can pretend to queſtion that the will of ſuch a ſuperior is a law to us? The reader, I ſuppoſe, has not forgot the conditions requiſite to conſtitute a law; conditions that are all to be met with in the preſent caſe. 1. There is a rule. 2. This rule is juſt and uſeful. 3. It comes from a ſuperior on whom we entirely depend. 4. In fine, it is ſufficiently made known to us, by principles engraved in our hearts, and even by our own reaſon. It is therefore a law properly ſo called, which we are really obliged to obſerve. But let us inquire a little further, by what means this natural law is diſcovered, or, which amounts to the ſame thing, from what ſource

ſource we muſt derive it. What we have hitherto proved only in a general manner, will be further illuſtrated and confirmed by the particulars on which we are now going to inlarge. For nothing can be a ſtronger proof of our having hit upon the true principles, than when unfolding and conſidering them in their different branches, we find they are always conformable to the nature of things.

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## CHAP. III.

*Of the means by which we diſcern what is juſt and unjuſt, or what is dictated by natural law; namely,* 1. *moral inſtinct, and* 2. *reaſon.*

I. WHAT has been ſaid in the preceding chapter already ſhews, that God has inveſted us with two means of perceiving or diſcerning moral good and evil; the firſt is only a kind of inſtinct; the ſecond is reaſon or judgment.

First means of diſcerning moral good and evil, namely, inſtinct or inward ſenſe.

Moral inſtinct I call that natural bent or inclination which prompts us to approve of certain things as good and commendable, and to condemn others as bad and blameable, independent of reflection. Or if any one has a mind to diſtinguiſh this inſtinct by the name of moral ſenſe, as Mr. Hutchinſon has done, I ſhall then ſay, that it is a faculty of the mind, which inſtantly diſcerns, in certain caſes, moral good and evil, by a kind of ſenſation and taſte, independent of reaſon and reflection.

Examples.

II. Thus at the ſight of a man in miſery or pain, we feel immediately a ſenſe of compaſſion, which prompts us to relieve him. The firſt emotion that ſtrikes us, after receiving a benefit, is to acknowledge the favour, and to thank our benefactor. The firſt diſpoſition of one man towards another, abſtracting from any particular reaſon he may have of hatred or fear, is a ſenſe of benevolence, as towards his fellow-creature, with whom he finds himſelf connected by a conformity of nature and wants. We likewiſe obſerve, that without any great thought or reaſoning, a child, or untutored peaſant, is ſenſible that ingratitude is a vice, and exclaims againſt perfidy, as a black and unjuſt action, which highly ſhocks him, and is abſolutely repugnant to his nature. On the contrary, to keep one's word, to be grateful for a benefit, to pay every body their due, to honour our parents, to comfort thoſe who are in diſtreſs or miſery, are all ſo many actions which we cannot but approve and eſteem as juſt, good, honeſt, beneficent, and uſeful to mankind. Hence the mind is pleaſed to ſee or hear ſuch acts of equity, ſincerity, humanity, and beneficence; the heart is touched and moved; and reading them in hiſtory we are ſeized with admiration, and extol the happineſs of the age, nation, or family, diſtinguiſhed by ſuch noble examples. As for criminal inſtances, we cannot ſee or hear them mentioned, without contempt or indignation.

Whence theſe ſenſations proceed.

III. If any one ſhould aſk, from whence comes this emotion of the heart, which prompts us, almoſt without

without any reaſoning or inquiry, to love ſome actions and to deteſt others; the only anſwer I am able to give, is, that it proceeds from the author of our being, who has formed us after this manner, and whom it has pleaſed that our nature or conſtitution ſhould be ſuch, that the difference of moral good and evil ſhould, in ſome caſes, affect us exactly in the ſame manner as phyſical good and evil. It is therefore a kind of inſtinct, like ſeveral others which nature has given us, in order to determine us with more expedition and vigour, where reflection would be too ſlow. It is thus we are informed of our corporeal wants by our inward ſenſe; while our outward ſenſes acquaint us with the quality of the objects that may be uſeful or prejudicial to us, in order to lead us, as it were, mechanically to whatever is requiſite for our preſervation. Such is alſo the inſtinct that attaches us to life, and the deſire of happineſs, the primum mobile of all our actions. Such is likewiſe the almoſt blind, but neceſſary tenderneſs of parents towards their children. The preſſing and indiſpenſable wants of man required he ſhould be directed by the way of ſenſe, which is always quicker and readier than that of reaſon.

IV. God has therefore thought proper to uſe this method in reſpect to the moral conduct of man, by imprinting within us a ſenſe or taſte of virtue and juſtice, which anticipates, in ſome meaſure, our reaſon, decides our firſt motions, and happily ſupplies, in moſt men, the want of attention or reflection. For what numbers of people would never

Of what uſe they are to us.

trouble their heads with reflecting? What multitudes there are of ſtupid wretches, that lead a mere animal life, and are ſcarce able to diſtinguiſh three or four ideas, in order to form what is called a ratiocination? It was therefore our particular advantage, that the Creator ſhould give us a diſcernment of good and evil, with a love for the one, and an averſion for the other, by means of a quick and lively kind of faculty, which has no neceſſity to wait for the ſpeculations of the mind.

Objection: Theſe ſenſations are not found in all men. Anſwer: 1. We find ſome traces of them among the moſt ſavage people.

V. If any one ſhould diſpute the reality of theſe ſenſations, by ſaying they are not to be found in all men, becauſe there are ſavage people who ſeem to have none at all; and even among civilized nations we meet with ſuch perverſe and ſtubborn minds, as do not appear to have any notion or ſenſe of virtue: I anſwer, 1. that the moſt ſavage people have nevertheleſs the firſt ideas above mentioned; and if there are ſome who ſeem to give no outward ſigns or demonſtrations thereof, this is owing to our not being ſufficiently acquainted with their manners; or becauſe they are intirely ſtupified, and have ſtifled almoſt all ſentiments of humanity; or, in fine, by reaſon that in ſome reſpects they fall into an abuſe contrary to theſe principles, not by rejecting them poſitively, but through ſome prejudice that has prevailed over their good ſenſe and natural rectitude, and inclines them to make a bad application of theſe principles. For example, we ſee ſavages who devour their enemies whom they have made priſoners, imagining it to be the right of war, and that ſince they have liberty to kill them, nothing ought to hin-

der them from benefiting by their fleſh, as their proper ſpoils. But thoſe very ſavages would not treat in that manner their friends or countrymen: They have laws and rules among themſelves; ſincerity and plain dealing are eſteemed there as in other places, and a grateful heart meets with as much commendation among them as with us.

VI. 2. With regard to thoſe who in the moſt enlightened and civilized countries ſeem to be void of all ſhame, humanity, or juſtice, we muſt take care to diſtinguiſh between the natural ſtate of man, and the depravation into which he may fall by abuſe, and in conſequence of irregularity and debauch. For example, what can be more natural than paternal tenderneſs? And yet we have ſeen men who ſeemed to have ſtifled it, through violence of paſſion, or by force of a preſent temptation, which ſuſpended for a while this natural affection. What can be ſtronger than the love of ourſelves and of our own preſervation? It happens, nevertheleſs, that whether through anger, or ſome other motion which throws the ſoul out of its natural poſition, a man tears his own limbs, ſquanders his ſubſtance, or does himſelf ſome great prejudice, as if he were bent on his own miſery and deſtruction.

2. We muſt diſtinguiſh between the natural ſtate of man, and that of his depravation.

VII. 3. In fine, if there are people, who cooly, and without any agitation of mind, ſeem to have diveſted themſelves of all affection and eſteem for virtue; (beſides, that monſters like theſe are as rare, I hope, in the moral as in the phyſical world;) we only ſee thereby the effects of an exquiſite and inveterate de-

3. If there be any monſters in the moral order, they are very rare, and no conſequence can be drawn from them.

pravation. For man is not born thus corrupted; but the intereſt he has in excuſing and palliating his vices, the habit he has contracted, and the ſophiſtical arguments to which he has recourſe, may ſtifle, in fine, or corrupt the moral ſenſe of which we have been ſpeaking; as we ſee that every other faculty of the ſoul or body may by long abuſe be altered or corrupted. Happily nevertheleſs we obſerve, that our ſpiritual ſenſes are leſs ſubject than our corporeal ones to depravity and corruption. The principle is almoſt always preſerved; it is a fire, that when it ſeems even to be extinct, may kindle again and throw out ſome glimmerings of light, as we have ſeen examples in very profligate men, under particular conjunctures.

Second means of diſcerning moral good and evil; which is reaſon.

VIII. But notwithſtanding God has implanted in us this inſtinct or ſenſe, as the firſt means of diſcerning moral good and evil, yet he has not ſtopt here; he has alſo thought proper that the ſame light which ſerves to direct us in every thing elſe, that is, reaſon, ſhould come to our aſſiſtance, in order to enable us the better to diſcern and comprehend the true rules of conduct.

Reaſon I call the faculty of comparing ideas, of inveſtigating the mutual relations of things, and from thence inferring juſt conſequences. This noble faculty, which is the directreſs of the mind, ſerves to illuſtrate, to prove, to extend, and apply what our natural ſenſe already gave us to underſtand, in relation to juſtice and injuſtice. As reflection, inſtead of diminiſhing paternal tenderneſs, tends to ſtrengthen it, by making us obſerve how agreeable it is to the relation of father and ſon, to the advantage

not

not only of a family, but of the whole ſpecies; in like manner the natural ſenſe we have of the beauty and excellence of virtue, is conſiderably improved by the reflections we are taught by reaſon, in regard to the foundations, motives, relations, and the general as well as particular uſes of this ſame virtue, which ſeemed ſo beautiful to us at firſt ſight.

IX. We may even affirm, that the light of reaſon has three advantages here in reſpect to this inſtinct or ſenſe. First advantage of reaſon in reſpect to inſtinct; it ſerves to verify it.

1. It contributes to prove its truth and exactneſs; in the ſame manner as we obſerve in other things that ſtudy and rules ſerve to verify the exactneſs of taſte, by ſhewing us it is neither blind nor arbitrary, but founded on reaſon, and directed by principles: or as thoſe who are quick-ſighted, judge with greater certainty of the diſtance or figure of an object, after having compared, examined, and meaſured it quite at their leiſure, than if they had depended intirely on the firſt ſight. We find likewiſe that there are opinions and cuſtoms, which make ſo ſtrong and ſo general an impreſſion on our minds, that to judge of them only by the ſentiment they excite, we ſhould be in danger of miſtaking prejudice for truth. It is reaſon's province to rectify this erroneous judgment, and to counterbalance this effect of education, by ſetting before us the true principles on which we ought to judge of things.

X. 2. A ſecond advantage which reaſon has in reſpect to ſimple inſtinct, is, that it unfolds the ideas better, by conſidering them in all their relations Second advantage: it unfolds the principles, and from

thence infers proper consequences.

and conſequences. For we frequently ſee that thoſe, who have had only the firſt notion, find themſelves embarraſſed and miſtaken, when they are to apply it to a caſe of the leaſt delicate or complicated nature. They are ſenſible indeed of the general principles, but they do not know how to follow them through their different branches, to make the neceſſary diſtinctions or exceptions, or to modify them according to time and place. This is the buſineſs of reaſon, which it diſcharges ſo much the better, in proportion as there is care taken to exerciſe and improve it.

Third advantage: reaſon is an univerſal means, and applicable to all caſes.

XI. 3. Reaſon not only carries its views farther than inſtinct, with reſpect to the unfolding and application of principles; but has alſo a more extenſive ſphere, in regard to the very principles it diſcovers, and the objects it embraces. For inſtinct has been given us only for a ſmall number of ſimple caſes, relative to our natural ſtate, and which require a quick determination. But beſides thoſe ſimple caſes, where it is proper that man ſhould be drawn and determined by a firſt motion; there are caſes of a more compoſite nature, which ariſe from the different ſtates of man, from the combination of certain circumſtances, and from the particular ſituation of each perſon; on all which it is impoſſible to form any rules but by reflection, and by an attentive obſervation of the relations and agreements of each thing.

Such are the two faculties with which God has inveſted us, in order to enable us to diſcern between good and evil. Theſe faculties happily joined, and ſubordinate one to the other, concur to the ſame effect. One gives the firſt notice, the other verifies and

and proves it; one acquaints us with the principles, the other applies and unfolds them; one ſerves for a guide in the moſt preſſing and neceſſary caſes, the other diſtinguiſhes all ſorts of affinity or relation, and lays down rules for the moſt particular caſes.

It is thus we are enabled to diſcern what is good and juſt, or, which amounts to the ſame thing, to know what is the divine will, in reſpect to the moral conduct we are to obſerve. Let us unite at preſent theſe two means, in order to find the principles of the law of nature.

## CHAP. IV.

### *Of the principles from whence reaſon may deduce the law of nature* *.

I. IF we ſhould be afterwards aſked, what principles ought reaſon to make uſe of, in order to judge of what relates to the law of nature, and to deduce or unfold it? our anſwer is in general, that we have only to attend to the nature of man, and to his ſtates or relations; and as theſe relations are different, there may be likewiſe different principles, that lead us to the knowledge of our duties.

From whence are we to deduce the principles of the law of nature?

But before we enter upon this point, it will be proper to make ſome preliminary remarks on what we call *principles of natural law*; in order to prevent the ambiguity or equivocation, that has often entangled this ſubject.

* See on this, and the following chapter, Puffendorf's Law of Nature and Nations, book ii. chap. iii.

II. 1. When

Preliminary remarks. What we underſtand by principles of natural law.

II. 1. When we inquire here, which are the firſt principles of natural law, the queſtion is, which are thoſe truths or primitive rules, whereby we may effectually know the divine will in regard to man; and thus arrive, by juſt conſequences, to the knowledge of the particular laws and duties which God impoſes on us by right reaſon?

2. We muſt not therefore confound the principles here in queſtion, with the efficient and productive cauſe of natural laws, or with their obligatory principle. It is unqueſtionable, that the will of the ſupreme Being is the efficient cauſe of the law of nature, and the ſource of the obligation from thence ariſing. But this being taken for granted, we have ſtill to inquire how man may attain to the knowledge of this will, and to the diſcovery of thoſe principles, which acquainting us with the divine intention, enable us to reduce from thence all our particular duties, ſo far as they are diſcoverable by reaſon only. A perſon aſks, for example, whether the law of nature requires us to repair injuries, or to be faithful to our engagements? If we are ſatisfied with anſwering him, that the thing is inconteſtable, becauſe ſo it is ordered by the divine will; it is plain that this is not a ſufficient anſwer to his queſtion; and that he may reaſonably inſiſt to have a principle pointed out, which ſhould really convince him that ſuch in effect is the will of the Deity; for this is the point he is in ſearch of.

Character of thoſe principles.

III. Let us afterwards obſerve, that the firſt principles of natural laws, ought to be not only true,

but likewiſe ſimple, clear, ſufficient, and proper for thoſe laws.

They ought to be true; that is, they ſhould be taken from the very nature and ſtate of the thing. Falſe or hypothetic principles muſt produce conſequences of the ſame nature; for a ſolid edifice can never be raiſed on a rotten foundation. They ought to be ſimple and clear of their own nature, or at leaſt eaſy to apprehend and unfold. For the laws of nature being obligatory for all mankind, their firſt principles ſhould be within every body's reach, ſo that whoſoever has common ſenſe may be eaſily acquainted with them. It would be very reaſonable therefore to miſtruſt principles that are far-fetched, or of too ſubtle and metaphyſical a nature.

I add, that theſe principles ought to be ſufficient and univerſal. They ſhould be ſuch as one may deduce from thence, by immediate and natural conſequences, all the laws of nature, and the ſeveral duties from thence reſulting; inſomuch that the expoſition of particulars be properly only an explication of the principles; in the ſame manner, pretty near, as the production or increaſe of a plant is only an unfolding of the ſeed.

And as moſt natural laws are ſubject to divers exceptions, it is likewiſe neceſſary that the principles be ſuch as include the reaſons of the very exceptions; and that we may not only draw from thence all the common rules of morality, but that they alſo ſerve to reſtrain theſe rules, according as place, time, and occaſion require.

In fine, thoſe firſt principles ought to be eſtabliſhed in ſuch a manner, as to be really the proper and

direct]

direct foundation of all the duties of natural law; inſomuch that whether we deſcend from the principle to deduce the conſequences, or whether we aſcend from the conſequences to the principle, our reaſonings ought always to be immediately connected, and their thread, as it were, never interrupted.

Whether we ought to reduce the whole to one ſingle principle.

IV. But, generally ſpeaking, it is a matter of mere indifference, whether we reduce the whole to one ſingle principle, or eſtabliſh a variety of them. We muſt conſult and follow in this reſpect a judicious and exact method. All that can be ſaid on this head, is, that it is not at all neceſſary to the ſolidity or perfection of the ſyſtem, that all natural laws be deduced from one ſingle and fundamental maxim: nay, perhaps the thing is impoſſible. Be that as it may, it is idle to endeavour to reduce the whole to this unity.

Such are the general remarks we had to propoſe. If they prove juſt, we ſhould reap this double advantage from them, that they will inſtruct us in the method we are to follow, in order to eſtabliſh the true principles of natural law; and at the ſame time they will enable us to paſs a ſolid judgment on the different ſyſtems concerning this ſubject. But it is time now to come to the point.

Man cannot attain to the knowledge of natural laws, but by examining his nature, conſtitution, and ſtate.

V. The only way to attain to the knowledge of natural law, is to conſider attentively the nature and conſtitution of man, the relations he has to the beings that ſurround him, and the ſtates from thence reſulting. In fact, the very term of *natural law*, and the notion we have given of it, ſhew that the prin-

principles of this ſcience muſt be taken from the very nature and conſtitution of man. We ſhall therefore lay down two general propoſitions, as the foundation of the whole ſyſtem of the law of nature.

*Firſt Propoſition.*

Whatever is in the nature and original conſtitution of man, and appears a neceſſary conſequence of this nature and conſtitution, certainly indicates the intention or will of God with reſpect to man, and conſequently acquaints us with the law of nature.

*Second Propoſition.*

But in order to have a complete ſyſtem of the law of nature, we muſt not only conſider the nature of man, ſuch as it is in itſelf; it is alſo neceſſary to attend to the relations he has to other beings, and to the different ſtates from thence ariſing: otherwiſe it is evident we ſhould have only an imperfect and defective ſyſtem.

We may therefore affirm, that the general foundation of the ſyſtem of natural law, is the nature of man conſidered under the ſeveral circumſtances that attend it, and in which God himſelf has placed him for particular ends; inaſmuch as by this means we may be acquainted with the will of God. In ſhort, ſince man holds from the hand of God himſelf whatever he poſſeſſes, as well with regard to his exiſtence, as to his manner of exiſting; it is the ſtudy of human nature only, that can fully inſtruct us concerning the views which God propoſed to himſelf in giving

us our being, and conſequently with the rules we ought to follow, in order to accompliſh the deſigns of the Creator.

Three ſtates of man.

VI. For this purpoſe we muſt recollect what has been already ſaid, of the manner in which man may be conſidered under three different reſpects or ſtates, which embrace all his particular relations. In the firſt place we may conſider him as God's creature, from whom he has received his life, his reaſon, and all the advantages he enjoys. Secondly, man may be conſidered in himſelf as a being, compoſed of body and ſoul, and endowed with many different faculties; as a being that naturally loves himſelf, and neceſſarily deſires his own felicity. In fine, we may conſider him as forming a part of the ſpecies, as placed on the earth near ſeveral other beings of a ſimilar nature, and with whom he is inclined, nay, by his natural condition, obliged to live in ſociety. Such, in fact, is the ſyſtem of humanity, from whence reſults the moſt common and natural diſtinction of our duties, taken from the three different ſtates here mentioned; duties towards God, towards ourſelves, and towards the reſt of mankind *.

Religion: principle of the natural laws, that have God for their object.

VII. In the firſt place, ſince reaſon brings us acquainted with God as a ſelf-exiſtent being, and ſo-

* We meet with this diviſion in Cicero: Philoſophy, ſays he, teaches us in the firſt place the worſhip of the deity; ſecondly, the mutual duties of men, founded on human ſociety; and, in fine, moderation and greatneſs of ſoul. "Hæc (philoſophia) "nos primum ad illorum (deorum) cultum, deinde ad jus ho-"minum, quod ſitum eſt in generis humani ſocietate, tum ad "modeſtiam magnitudinemque animi erudivit." *Cic. Tuſc. quæſt. lib.* 1. *cap.* 26.

vereign

vereign Lord of all things, and in particular as our creator, preſerver, and benefactor; it follows therefore that we ought neceſſarily to acknowledge the ſovereign perfection of this ſupreme Being, and our abſolute dependance on him: which by a natural conſequence inſpires us with ſentiments of reſpect, love, and fear, and with an intire ſubmiſſion to his will. For why ſhould God have thus manifeſted himſelf to mankind, were it not that their reaſon ſhould teach them to entertain ſentiments proportioned to the excellence of his nature, that is, they ſhould honour, love, adore, and obey him?

Conſequences of this principle.

VIII. Infinite reſpect is the natural conſequence of the impreſſion we receive from a proſpect of all the divine perfections. We cannot refuſe love and gratitude to a being ſupremely beneficent. The fear of diſpleaſing or offending him, is a natural effect of the idea we entertain of his juſtice and power, and obedience cannot but follow from the knowledge of his legitimate authority over us, of his bounty, and ſupreme wiſdom, which are ſure to conduct us by the road moſt agreeable to our nature and happineſs. The aſſemblage of theſe ſentiments, deeply engraved in the heart, is called *Piety*.

Piety, if it be real, will ſhew itſelf externally two different ways, by our morals, and by outward worſhip. I ſay, 1. by *our morals*, becauſe a pious man, ſincerely penetrated with the abovementioned ſentiments, will find himſelf naturally inclined to ſpeak and act after the manner he knows to be moſt conformable to the divine will and perfections: this is his rule and model; from whence the practice of the moſt excellent virtues ariſes.

2. But

2. But beſides this manner of honouring God, which is undoubtedly the moſt neceſſary and moſt real, a religious man will conſider it as a pleaſure and duty to ſtrengthen himſelf in theſe ſentiments of piety, and to excite them in others. Hence external worſhip, as well public as private, is derived. For whether we conſider this worſhip as the firſt and almoſt only means of exciting, entertaining, and improving religious and pious ſentiments in the mind; or whether we look upon it as a homage, which men, united by particular or private ſocieties, pay in common to the Deity; or whether, in fine, both theſe views are joined, reaſon repreſents it to us as a duty of indiſpenſable neceſſity.

This worſhip may vary indeed in regard to its form; yet there is a natural principle which determines its eſſence, and preſerves it from all frivolous and ſuperſtitious practices; viz. that it conſiſts in inſtructing mankind, in rendering them pious and virtuous, and in giving them juſt ideas of the nature of God, as alſo of what he requires from his creatures.

The different duties here pointed out, conſtitute what we diſtinguiſh by the name of *Religion*. We may define it, a connexion which attaches man to God, and to the obſervance of his laws, by thoſe ſentiments of reſpect, love, ſubmiſſion, and fear, which the perfections of a ſupreme Being, and our intire dependance on him, as an all-wiſe, and all-bountiful Creator, are apt to excite in the human mind.

Thus by ſtudying our nature and ſtate, we find, in the relation we have to the Deity, the proper principle from whence thoſe duties of natural law, that have God for their object, are immediately derived.

IX. If

IX. If we ſearch afterwards for the principle of thoſe duties that regard ourſelves, it will be eaſy to diſcover them, by examining the internal conſtitution of man, and inquiring into the Creator's views in regard to him, in order to know for what end he has endowed him with thoſe faculties of mind and body that conſtitute his nature.

Self-love: the principle of thoſe natural laws which concern ourſelves.

Now it is evident, that God, by creating us, propoſed our preſervation, perfection, and happineſs. This is what manifeſtly appears, as well by the faculties with which man is inveſted, which all tend to the ſame end; as by the ſtrong inclination that prompts us to purſue good, and ſhun evil. God is therefore willing, that every one ſhould labour for his own preſervation and perfection, in order to acquire all the happineſs of which he is capable according to his nature and ſtate.

This being premiſed, we may affirm that ſelf-love (I mean an enlightened and rational love of ourſelves) may ſerve for the firſt principle with regard to the duties which concern man himſelf; inaſmuch as this ſenſation being inſeparable from human nature, and having God for its author, gives us clearly to underſtand in this reſpect the will of the ſupreme Being.

Yet we ſhould take particular notice, that the love of ourſelves cannot ſerve us as a principle and rule, but inaſmuch as it is directed by right reaſon, according to the exigencies or neceſſities of our nature and ſtate.

For thus only it becomes an interpreter of the Creator's will in reſpect to us; that is, it ought to be managed in ſuch a manner, as not to offend the laws of religion or ſociety. Otherwiſe this ſelf-love

would become the ſource of a thouſand iniquities; and ſo far from being of any ſervice, would prove a ſnare to us, by the prejudice we ſhould certainly receive from thoſe very iniquities.

Natural laws derived from this principle.

X. From this principle, thus eſtabliſhed, it is eaſy to deduce the natural laws and duties that directly concern us. The deſire of happineſs is attended, in the firſt place, with the care of our preſervation. It requires next, that (every thing elſe being equal) the care of the ſoul ſhould be preferred to that of the body. We ought not to neglect to improve our reaſon, by learning to diſcern truth from falſhood, the uſeful from the hurtful, in order to acquire a juſt knowledge of things that concern us, and to form a right judgment of them. It is in this that the perfection of the underſtanding, or wiſdom, conſiſts. We ſhould afterwards be determined, and act conſtantly according to this light, in ſpite of all contrary ſuggeſtion and paſſion. For it is properly this vigour or perſeverance of the ſoul, in following the counſels of wiſdom, that conſtitutes virtue, and forms the perfection of the will, without which the light of the underſtanding would be of no manner of uſe.

From this principle all the particular rules ariſe. You aſk, for example, whether the moderation of the paſſions be a duty impoſed upon us by the law of nature? In order to give you an anſwer, I inquire, in my turn, whether it is neceſſary to our preſervation, perfection, and happineſs? If it be as, undoubtedly it is, the queſtion is decided. You have a mind to know whether the love of occupation, the diſcerning between permitted and forbidden

pleaſures, and moderation in the uſe of ſuch as are permitted, whether, in fine, patience, conſtancy, reſolution, &c. are natural duties; I ſhall always anſwer, by making uſe of the ſame principle; and, provided I apply it well, my anſwer cannot but be right and exact; becauſe the principle conducts me certainly to the end, by acquainting me with the will of God.

XI. There remains ſtill another point to inveſtigate, namely, the principle from whence we are to deduce thoſe natural laws that regard our mutual duties, and have ſociety for their object. Let us ſee whether we cannot diſcover this principle, by purſuing the ſame method. We ought always to conſult the actual ſtate of things, in order to take their reſult. Man is made for ſociety.

I am not the only perſon upon earth; I find myſelf in the middle of an infinite number of other men, who reſemble me in every reſpect; and I am ſubject to this ſtate, even from my nativity, by the very act of providence. This induces me naturally to think, it was not the intention of God that each man ſhould live ſingle and ſeparate from the reſt; but that, on the contrary, it was his will they ſhould live together, and be joined in ſociety. The Creator might certainly have formed all men at the ſame time, though ſeparated from one another, by inveſting each of them with the proper and ſufficient qualities for this kind of ſolitary life. If he has not followed this plan, it is probably becauſe it was his will that the ties of conſanguinity and birth ſhould begin to form a more extenſive union, which he was pleaſed to eſtabliſh amongſt men.

The more I examine, the more I am confirmed in this thought. Moſt of the faculties of man, his natural inclinations, his weakneſs, and wants, are all ſo many indubitable proofs of this intention of the Creator.

1. Society is abſolutely neceſſary for man.

XII. Such in effect is the nature and conſtitution of man, that out of ſociety he could neither preſerve his life, nor diſplay and perfect his faculties and talents, nor attain any real and ſolid happineſs. What would become of an infant, were there not ſome benevolent and aſſiſting hand to provide for his wants? He muſt periſh, if no one takes care of him; and this ſtate of weakneſs and ignorance requires even a long and continued aſſiſtance. View him when grown up to manhood, you find nothing but rudeneſs, ignorance, and confuſed ideas, which he is ſcarce able to convey; abandon him to himſelf, and you behold a ſavage, and perhaps a ferocious animal; ignorant of all the conveniences of life, ſunk in idleneſs, a prey to ſpleen and melancholy, and almoſt incapable of providing againſt the firſt wants of nature. If he attains to old age, behold him relapſed into infirmities that render him almoſt as dependent on external aid as he was in his infancy. This dependance ſhews itſelf in a more ſenſible manner in accidents and maladies. What would then become of man, were he to be in a ſtate of ſolitude? There is nothing but the aſſiſtance of our fellow-creatures that is able to preſerve us from divers evils, or to redreſs them, and render life eaſy and happy, in whatſoever ſtage or ſituation of life.

We have an excellent picture of the uſe of ſociety, drawn by Seneca *. *On what*, ſays he, *does our ſecurity depend, but on the ſervices we render one another? It is this commerce of benefits that makes life eaſy, and enables us to defend ourſelves againſt any ſudden inſults or attacks. What would be the fate of mankind, were every one to live apart? So many men, ſo many victims to other animals, an eaſy prey, in ſhort, feebleneſs itſelf. In fact, other animals have ſtrength ſufficient to defend themſelves: Thoſe that are wild and wandering, and whoſe ferocity does not permit them to herd together, are born, as it were, with arms; whereas man is on all ſides encompaſſed with weakneſs, having neither arms, nor teeth, nor claws to render him formidable. But the ſtrength he wants by himſelf, he finds when united with his equals. Nature, to make amends, has endowed him with two things,*

* Quo alio tuti ſumus, quàm quòd mutuis juvamur officiis? Hoc uno inſtructior vita contraque incurſiones ſubitas munitior eſt, beneficiorum commercio. Fac nos ſingulos, quid ſumus? præda animalium et victimæ, ac belliſſimus et facillimus ſanguis. Quoniam cæteris animalibus in tutelam ſui ſatis virium eſt: quæcunque vaga naſcuntur, & actura vitam ſegregem, armata ſunt. Hominem imbecillitas cingit; non unguium vis, non dentium, terribilem cæteris fecit. Nudum & infirmum ſocietas munit. Duas res dedit quæ illum, obnoxium cæteris, validiſſimum facerent, rationem & ſocietatem. Itaque, qui par eſſe nulli poterat, ſi ſeduceretur, rerum potitur. Societas illi dominium omnium animalium dedit: Societas terris genitum, in alienæ naturæ tranſmiſit imperium, & dominari etiam in mari juſſit. Hæc morborum impetus arcuit, ſenectuti adminicula proſpexit, ſolatia contra dolores dedit. Hæc fortes nos facit, quod licet contra fortunam advocare. Hanc ſocietatem tolle, & unitatem generis humani, quâ vita ſuſtinetur, ſcindes. *Senec. de Benef. lib.* 4. *cap.* 18.

*which give him a conſiderable force aud ſuperiority, where otherwiſe he would be much inferior; I mean reaſon and ſociability, whereby he who alone could make no reſiſtance, becomes maſter of the whole. Society gives him an empire over other animals; ſociety is the cauſe, that, not ſatisfied with the element on which he was born, he extends his command over the ſea. It is this ſame union that ſupplies him with remedies in his diſeaſes, aſſiſtance in his old age, and comfort in his pains and anxieties; it is this that enables him, as it were, to bid defiance to fortune. Take away ſociety, and you deſtroy the union of mankind, on which the preſervation and the whole happineſs of life depends.*

2. Man by his conſtitution is very fit for ſociety.

XIII. As ſociety is ſo neceſſary to man, God has therefore given him a conſtitution, faculties, and talents, that render him very proper for this ſtate. Such is, for example, the faculty of ſpeech, which enables us to convey our thoughts with facility and readineſs, and would be of no manner of uſe out of ſociety. The ſame may be ſaid with regard to our propenſity to imitation, and of that ſurpriſing mechaniſm which renders all the paſſions and impreſſions of the ſoul ſo eaſy to be communicated. It is ſufficient a man appears to be moved, in order to move and ſoften others *. If a perſon accoſts us with joy painted on his countenance, he excites in us the like ſentiment of joy. The tears of a ſtranger affect us, even before we know the cauſe there-

* Homo ſum; humani nihil a me alienum puto. *Ter. Heauton.*

of;

of *; and the cries of a man related to us only by the common tie of humanity, make us fly to his ſuccour by a mechanical movement previous to all deliberation.

This is not all. We ſee that nature has thought proper to diſtribute differently her talents among men, by giving to ſome an aptitude to perform certain things, which to others are impoſſible; while the latter have received, in their turn, an induſtry denied to the former. Wherefore, if the natural wants of men render them dependent on one another, the diverſity of talents, which qualifies them for mutual aid, connects and unites them. Theſe are ſo many evident ſigns of man's being deſigned for ſociety.

XIV. But if we conſult our own inclinations, we ſhall likewiſe find, that our hearts are naturally bent to wiſh for the company of our equals, and to dread an intire ſolitude as an irkſome and forlorn ſtate. And though there have been inſtances of people who have thrown themſelves into a ſolitary life, yet we cannot conſider this in any other light but as the effect of ſuperſtition, or melancholy, or of a ſingularity extremely remote from the ſtate of nature. Were we to inveſtigate the cauſe of this ſocial inclination, we ſhould find it was very wiſely beſtowed on us by the author of our being; by reaſon that it is in ſociety man finds a remedy for the greateſt part of his wants, and an occaſion for exerciſing

3. Our natural inclinations prompt us to look out for ſociety.

* Ut ridentibus adrident, ita flentibus adſunt
Humani vultus.—*Hor. de arte poet.* v. 101.

moſt of his faculties; it is in ſociety he is capable of feeling and diſplaying thoſe ſenſations on which nature has intailed ſo much ſatisfaction and pleaſure; I mean, the ſenſations of benevolence, friendſhip, compaſſion, and generoſity. For ſuch are the charms of ſocial affections, that from thence our pureſt enjoyments ariſe. Nothing in fact is ſo ſatisfactory and flattering to man, as to think he merits the eſteem and friendſhip of others. Science acquires an additional value, when it can diſplay itſelf abroad; and our joy becomes more ſenſible, when we have an opportunity of teſtifying it in public, or of pouring it into the boſom of a friend: it is redoubled by being communicated; for our own ſatisfaction is increaſed by the agreeable idea we have of giving pleaſure to our friends, and of fixing them more ſteadily in our intereſt. Anxiety, on the contrary, is alleviated and ſoftened by ſharing it with our neighbour; juſt as a burden is eaſed when a good-natured perſon helps us to bear it.

Thus every thing invites us to the ſtate of ſociety; want renders it neceſſary to us, inclination makes it a pleaſure, and the diſpoſitions we naturally have for it, are a ſufficient indication of its being really intended by our Creator.

Sociability. Principles of natural laws relative to other men.

XV. But as human ſociety can neither ſubſiſt, nor produce the happy effects for which God has eſtabliſhed it, unleſs mankind have ſentiments of affection and benevolence for one another; it follows therefore, that our Creator and common Father is willing that every body ſhould be animated with theſe ſentiments, and do whatever lies in their power

to

to maintain this ſociety in an agreeable and advantageous ſtate, and to tie the knot ſtill cloſer by reciprocal ſervices and benefits.

This is the true principle of the duties which the law of nature preſcribes to us in reſpect to other men. Ethic writers have given it the name of *Sociability*, by which they underſtand that diſpoſition which inclines us to benevolence towards our fellow-creatures, to do them all the good that lies in our power, to reconcile our own happineſs to that of others, and to render our particular advantage ſubordinate to the common and general good.

The more we ſtudy our own nature, the more we are convinced that this ſociability is really agreeable to the will of God. For, beſide the neceſſity of this principle, we find it engraved in our heart; where, if the Creator has implanted on one ſide the love of ourſelves, the ſame hand has imprinted on the other a ſentiment of benevolence for our fellow-creatures. Theſe two inclinations, though diſtinct from one another, have nothing oppoſite in their nature; and God who has beſtowed them upon us, deſigned they ſhould act in concert, in order to help, and not to deſtroy each other. Hence good-natured and generous hearts feel a moſt ſenſible ſatisfaction in doing good to mankind, becauſe in this they follow the inclination they received from nature.

Natural laws which flow from ſociability.

XVI. From the principle of ſociability, as from their real ſource, all the laws of ſociety, and all our general and particular duties towards other men, are derived.

1. This

1. The public good ought always to be the ſupreme rule.

1. This union which God has eſtabliſhed among men requires, that in every thing relating to ſociety, the public good ſhould be the ſupreme rule of their conduct, and that guided by the counſels of prudence, they ſhould never purſue their private advantage to the prejudice of the public: For this is what their ſtate demands, and is conſequently the will of their common father.

2. The ſpirit of ſociability ought to be univerſal.

2. The ſpirit of ſociability ought to be univerſal. Human ſociety embraces all thoſe with whom we can have poſſibly any communication; becauſe it is founded on the relations they all bear to one another, in conſequence of their nature and ſtate *.

3. To obſerve a natural equality.

3. Reaſon afterwards informs us, that creatures of the ſame rank and ſpecies, born with the ſame faculties to live in ſociety, and to partake of the ſame advantages, have in general an equal and common right. We are therefore obliged to conſider ourſelves as naturally equal, and to behave as ſuch; and it would be bidding defiance to nature, not to acknowledge this principle of equity (which by the civilians is called *æquabilitas juris)* as one of the firſt foundations of ſociety. It is on this the *lex talionis* is founded, as alſo that ſimple but univerſal and uſeful rule, that we ought to have the ſame diſpoſitions in regard to other men, as we deſire they ſhould have towards us, and to behave in the ſame manner towards them, as we are willing they ſhould behave to us in the like circumſtances.

4. To preſerve a benevolence even towards our enemies.

4. Sociability being a reciprocal obligation among men, ſuch as through malice or injuſtice break the

* See Puffendorf, Law of Nature and Nations, book ii. chap. iii. § 15.

band

band of ſociety, cannot reaſonably complain, if thoſe they have injured do not treat them as friends, or even if they proceed againſt them by forcible methods. Self-defence is permitted, revenge is not.

But though we have a right to ſuſpend the acts of benevolence in regard to an enemy, yet we are never allowed to ſtifle its principle. As nothing but neceſſity can authoriſe us to have recourſe to force againſt an unjuſt aggreſſor, ſo this ſame neceſſity ſhould be the rule and meaſure of the harm we do him; and we ought to be always diſpoſed to reconcilement ſo ſoon as he has done us juſtice, and we have nothing farther to apprehend.

We muſt therefore diſtinguiſh carefully between a juſt defence of one's own perſon, and revenge. The firſt does but ſuſpend, through neceſſity, and for a while, the exerciſe of benevolence, and has nothing in it oppoſite to ſociability. But the other, ſtifling the very principle of benevolence, introduces, in its ſtead, a ſentiment of hatred and animoſity, a ſentiment vicious in itſelf, contrary to the public good, and expreſly condemned by the law of nature.

XVII. Theſe general rules are very fertile of conſequences. Particular conſequences.

We ſhould do no wrong to any one, either in word or action; and we ought to repair all damages by us committed; for ſociety could not ſubſiſt, were acts of injuſtice tolerated.

We ought to be ſincere in our diſcourſe, and ſteady to our engagements; for what truſt could men repoſe in one another, and what ſecurity could they have in commercial life, were it lawful to violate their plighted faith?

We

We not only ought to do to every man the good he properly deſerves, but moreover we ſhould pay him the degree of eſteem and honour due to him, according to his eſtate and rank; becauſe ſubordination is the link of ſociety, without which there can be no order either in families, or in civil governments.

But if the public good requires that inferiors ſhould obey, it demands alſo that ſuperiors ſhould preſerve the rights of thoſe who are ſubject to them, and ſhould govern their people only in order to render them happy.

Again: men are captivated by the heart, and by favours; now nothing is more agreeable to humanity, or more uſeful to ſociety, than compaſſion, lenity, beneficence, and generoſity. This is what induced Cicero to ſay*, *There is nothing truer than that excellent maxim of Plato, viz. that we are not born for ourſelves alone, but likewiſe for our country and friends: And if, according to the Stoics, the productions of the earth are for men, and men themſelves for the good and aſſiſtance of one another; we ought certainly, in this reſpect, to comply with the*

* Sed quoniam (ut præclarè ſcriptum eſt a Platone) non nobis ſolùm nati ſumus, ortuſque noſtri partem patria vindicat, partem amici: atque (ut placet Stoicis) quæ in terris gignuntur, ad uſum hominum omnia creari, homines autem hominum cauſa eſſe generatos, ut ipſi inter ſe alii prodeſſe poſſent: in hoc naturam debemus ducem ſequi, & communes utilitates in medium afferre, mutatione officiorum, dando, accipiendo: tum artibus, tum opera, tum facultatibus devincire hominum inter homines ſocietatem. *Cic. de Offic. lib.* i. *cap.* 7.

*deſign*

*deſign of nature, and promote her intention, by contributing our ſhare to the general intereſt, by mutually giving and receiving good turns, and employing all our care and induſtry, and even our ſubſtance, to ſtrengthen that love and friendſhip which ſhould always prevail in human ſociety.*

Since therefore the different ſentiments and acts of juſtice and goodneſs, are the only and true bonds that knit men together, and are capable of contributing to the ſtability, peace, and proſperity of ſociety; we muſt look upon thoſe virtues as ſo many duties that God impoſes on us, for this reaſon, becauſe whatever is neceſſary to his deſign, is of courſe conformable to his will.

XVIII. We have therefore three general principles of the laws of nature relative to the abovementioned three ſtates of man: And theſe are, 1. Religion. 2. Self-love. 3. Sociability or benevolence towards our fellow-creatures.

Theſe three principles have all the requiſite characters.

Theſe principles have all the characters above required. They are *true*, becauſe they are taken from the nature of man, in the conſtitution and ſtate in which God has placed him. They are *ſimple*, and within every body's reach, which is an important point; becauſe, in regard to duties, there is nothing wanting but principles that are obvious to every one; for a ſubtlety of mind that ſets us upon ſingular and new ways, is always dangerous. In fine, theſe principles are *ſufficient*, and very *fertile*; by reaſon they embrace all the objects of our duties, and acquaint us with the will of God in the ſeveral ſtates and relations of man.

XIX. True

Remarks on Puffendorf's ſyſtem.

XIX. True it is, that Puffendorf reduces the thing within a leſſer compaſs, by eſtabliſhing ſociability alone as the foundation of all natural laws. But it has been juſtly obſerved, that this method is defective. For the principle of ſociability does not furniſh us with the proper and direct foundation of all our duties. Thoſe which have God for their object, and thoſe which are relative to man himſelf, do not flow directly and immediately from this ſource, but have their proper and particular principle. Let us ſuppoſe man in ſolitude: He would ſtill have ſeveral duties to diſcharge, ſuch as to love and honour God, to preſerve himſelf, to cultivate his faculties as much as poſſible, &c. I acknowledge that the principle of ſociability is the moſt extenſive, and that the other two have a natural connection with it; yet we ought not to confound them, as if they had not their own particular force, independent of ſociability. Theſe are three different ſprings, which give motion and action to the ſyſtem of humanity; ſprings diſtinct from one another, but which act all at the ſame time purſuant to the views of the Creator.

The critics have carried their cenſures too far againſt him in this reſpect.

XX. Be it ſaid nevertheleſs, in juſtification of Puffendorf, and according to a judicious obſervation made by Barbeyrac, that moſt of the criticiſms on the former's ſyſtem, as defective in its principle, have been puſhed too far. This illuſtrious reſtorer of the ſtudy of natural law declares, his deſign was properly no more than to explain the natural duties of

of man*: Now for this purpoſe he had occaſion only for the principle of ſociability. According to him, our duties towards God form a part of natural theology; and religion is interwoven in a treatiſe of natural law, only as it is a firm ſupport of ſociety. With regard to the duties that concern man himſelf, he makes them depend partly on religion, and partly on ſociability †. Such is Puffendorf's ſyſtem: He would certainly have made his work more perfect, if embracing all the ſtates of man, he had eſtabliſhed diſtinctly the proper principles agreeable to each of thoſe ſtates, in order to deduce afterwards from thence all our particular duties: For ſuch is the juſt extent we ought to give to natural law.

Of the connection between our natural duties.

XXI. This was ſo much the more neceſſary, as notwithſtanding our duties are relative to different objects, and deduced from diſtinct principles, yet they have, as we already hinted, a natural connection; inſo much that they are interwoven, as it were, with one another, and by mutual aſſiſtance, the obſervance of ſome renders the practice of others more eaſy and certain. It is certain, for example, that the fear of God, joined to a perfect ſubmiſſion to his will, is a very efficacious motive to engage men to diſcharge what directly concerns themſelves, and to do for their neighbour and for ſociety whatever the law of nature requires. It is alſo certain, that the duties

* See the Law of Nature and Nations, book. ii. chap. iii. § 19. Specim. controverſ. cap. 5. § 25. Spicilegium controverſiarum, cap. 1. § 14.

† See the Duties of Man and a Citizen, book i. chap. iii. § 13.

which

which relate to ourſelves, contribute not a little to direct us with reſpect to other men. For what good could the ſociety expect from a man, who would take no care to improve his reaſon, or to form his mind and heart to wiſdom and virtue? On the contrary, what may we not promiſe ourſelves from thoſe who ſpare no pains to perfect their faculties and talents, and are puſhed on towards this noble end, either by the deſire of rendering themſelves happy, or by that of procuring the happineſs of others? Thus whoſoever neglects his duty towards God, and deviates from the rules of virtue in what concerns himſelf, commits thereby an injuſtice in reſpect to other men, becauſe he ſubtracts ſo much from the common happineſs. On the contrary, a perſon who is penetrated with ſuch ſentiments of piety, juſtice, and benevolence, as religion and ſociability require, endeavours to make himſelf happy; becauſe, according to the plan of providence, the perſonal felicity of every man is inſeparably connected, on the one ſide with religion, and on the other with the general happineſs of the ſociety of which he is a member; inſomuch that to take a particular road to happineſs is miſtaking the thing, and rambling quite out of the way. Such is the admirable harmony, which the divine wiſdom has eſtabliſhed between the different parts of the human ſyſtem. What could be wanting to complete the happineſs of man, were he always attentive to ſuch ſalutary directions?

Of the oppoſition that ſometimes happens between theſe very duties.

XXII. But as the three grand principles of our duties are thus connected, ſo there is likewiſe a natural ſubordination between them, that helps to decide which

which of thoſe duties ought to have the preference in particular circumſtances or caſes, when they have a kind of conflict or oppoſition that does not permit us to diſcharge them all alike.

The general principle to judge rightly of this ſubordination is, that the ſtronger obligation ought always to prevail over the weaker. But to know afterwards which is the ſtronger obligation, we have only to attend to the very nature of our duties, and their different degrees of neceſſity and utility; for this is the right way to know in that caſe the will of God. Purſuant to theſe ideas, we ſhall give here ſome general rules concerning the caſes above mentioned.

1. The duties of man towards God ſhould always prevail over any other. For of all obligations, that which binds us to our all-wiſe and all-bountiful Creator, is without doubt the neareſt and ſtrongeſt.

2. If what we owe to ourſelves comes in competition with our duty to ſociety in general, ſociety ought to have the preference. Otherwiſe, we ſhould invert the order of things, deſtroy the foundations of ſociety, and act directly contrary to the will of God, who by ſubordinating the part to the whole, has laid us under an indiſpenſable obligation of never deviating from the ſupreme law of the common good.

3. But if, every thing elſe equal, there happens to be an oppoſition between the duties of ſelf-love and ſociability, ſelf-love ought to prevail. For man being directly and primarily charged with the care of his own preſervation and happineſs, it follows therefore that in a caſe of intire inequality, the care of ourſelves ought to prevail over that of others.

4. But if, in fine, the oppoſition is between duties relating to ourſelves, or between two duties of ſociability, we ought to prefer that which is accompanied with the greateſt utility, as being the moſt important *.

Natural law *obligatory*; and natural law of *ſimple permiſſion*. General principle of the law of permiſſion.

XXIII. What we have hitherto explained, properly regards the natural law called *obligatory*, viz. that which having for its object thoſe actions wherein we diſcover a neceſſary agreeableneſs or diſagreeableneſs to the nature and ſtate of man, lays us therefore under an indiſpenſable obligation of acting or not acting after a particular manner. But in conſequence of what has been ſaid above †, we muſt acknowledge that there is likewiſe a law of *ſimple permiſſion*, which leaves us at liberty in particular caſes to act or not; and by laying other men under a neceſſity of giving us no let or moleſtation, ſecures to us in this reſpect the exerciſe and effect of our liberty.

The general principle of this law of permiſſion is, that we may reaſonably, and according as we judge proper, do or omit whatever has not an abſolute and eſſential agreeableneſs or diſagreeableneſs to the nature and ſtate of man; unleſs it be a thing expreſly ordained or forbidden by ſome poſitive law, to which we are otherwiſe ſubject.

The truth of this principle is obvious. The Creator having inveſted man with ſeveral faculties, and among the reſt with that of modifying his actions as he thinks proper; it is plain that in every thing

* See Barbeyrac's fifth note on ſection 15. of the third chapter, book ii. of the Law of Nature and Nations.

† See part i. chap. x. § 5. and 6.

in

in which he has not reſtrained the uſe of thoſe faculties, either by an expreſs command or a poſitive prohibition, he leaves man at liberty to exerciſe them according to his own diſcretion. It is on this law of permiſſion all thoſe rights are founded, which are of ſuch a nature as to leave us at liberty to uſe them or not, to retain or renounce them in the whole or in part; and, in conſequence of this renunciation, actions in themſelves permitted, happen ſometimes to be commanded or forbidden by the authority of the ſovereign, and become obligatory by that means.

Two ſpecies of natural law; one primitive, the other ſecondary.

XXIV. This is what right reaſon diſcovers in the nature and conſtitution of man, in his original and primitive ſtate. But as man himſelf may make divers modifications in his primitive ſtate, and enter into ſeveral adventitious ones; the conſideration of thoſe new ſtates falls likewiſe upon the object of the law of nature, taken in its full extent; and the principles we have laid down ought to ſerve likewiſe for a rule in the ſtates in which man engages by his own act and deed.

Hence occaſion has been taken to diſtinguiſh two ſpecies of natural law; the one primary, the other ſecondary.

The primary or primitive natural law is that which immediately ariſes from the primitive conſtitution of man, as God himſelf has eſtabliſhed it, independent of any human act.

Secondary natural law is that which ſuppoſes ſome human act or eſtabliſhment; as a civil ſtate, property of goods, &c.

It is eaſy to comprehend, that this ſecondary natural law is only a conſequence of the former; or rather it is a juſt application of the general maxims of natural law to the particular ſtates of mankind, and to the different circumſtances in which they find themſelves by their own act; as it appears in fact, when we come to examine into particular duties.

* Some perhaps will be ſurprized, that in eſtabliſhing the principles of natural law, we have taken no notice of the different opinions of writers concerning this ſubject. But we judged it more adviſeable to point out the true ſources from whence the principles were to be drawn, and to eſtabliſh afterwards the principles themſelves, than to enter into a diſcuſſion which would have carried us too far for a work of this nature. If we have hit upon the true one, this will be ſufficient to enable us to judge of all the reſt; and if any one deſires a more ample and more particular inſtruction, he may eaſily find it, by conſulting Puffendorf, who relates the different opinions of civilians, and accompanies them with very judicious reflections †.

* See Grotius, Rights of War and Peace, book i. chap. i. § 10. and Puffendorf, Law of Nature and Nations, book ii. chap. iii. § 22.

† See Puffendorf, Law of Nature and Nations, book ii. chap. iii. § 13—14.

CHAP.

## CHAP. V.

*That natural laws have been ſufficiently notified; of their proper characteriſtics, the obligation they produce, &c.*

God has ſufficiently notified the laws of nature to man.

I. AFTER what has been hitherto ſaid in relation to the principles of natural laws, and the way we come to know them, there is no need to aſk whether God has ſufficiently notified thoſe laws to man. It is evident we can diſcover all their principles, and deduce from thence our ſeveral duties, by that natural light which to no man has been ever refuſed. It is in this ſenſe we are to underſtand what is commonly ſaid, that this law is naturally known to all mankind. For to think with ſome people, that the law of nature is innate, as it were, in our minds, and actually imprinted in our ſouls from the firſt moment of our exiſtence; is ſuppoſing a thing that is not at all neceſſary, and is moreover contradicted by experience. All that can be ſaid on this ſubject, is, that the moſt general and moſt important maxims of the law of nature, are ſo clear and manifeſt, and have ſuch a proportion to our ideas, and ſuch an agreeableneſs to our nature, that ſo ſoon as they are propoſed to us, we inſtantly approve of them; and as we are diſpoſed and accuſtomed from our infancy to feel theſe truths, we conſider them as born with us.

Men may aſſiſt one another in this reſpect.

II. But we muſt take care to obſerve, that when we ſay man may acquire the knowledge of natural

laws, by uſing his reaſon; we do not exclude the ſuccours he may receive from elſewhere. Some there are, who having taken a particular care to cultivate their minds, are qualified to enlighten others, and to ſupply, by their inſtructions, the rudeneſs and ignorance of the common run of mankind. This is agreeable to the plan of providence. God having deſigned man for ſociety, and given him a conſtitution relative to this end, the different helps which men receive of one another, ought to be equally ranked among natural means, with thoſe which every one finds within himſelf, and draws from his own fund.

In effect, all men are not of themſelves capable to unfold methodically the principles of natural laws, and the conſequences from thence reſulting. It is ſufficient that middling capacities are able to comprehend at leaſt thoſe principles, when they are explained to them, and to feel the truth and neceſſity of the duties that flow from thence, by comparing them with the conſtitution of their own nature. But if there be ſome capacities of a ſtill inferior order, they are generally led by the impreſſions of example, cuſtom, authority, or ſome preſent and ſenſible utility. Be this as it will, every thing rightly conſidered, the law of nature is ſufficiently notified to impower us to affirm, that no man at the age of diſcretion, and in his right ſenſes, can alledge for a juſt excuſe, an invincible ignorance on this article.

The manner in which the principles of the laws

III. Let us make a reflection, which preſents itſelf here very naturally. It is, that whoſoever attends ſeriouſly to the manner in which we have

eſtabliſhed the principles of the laws of nature, will ſoon find, that the method we have followed is a freſh proof of the certainty and reality of thoſe laws. We have waved all abſtract and metaphyſical ſpeculations, in order to conſult plain fact, and the nature and ſtate of things. It is from the natural conſtitution of man, and from the relations he has to other beings, that we have taken our principles; and the ſyſtem from thence reſulting, has ſo ſtrict and ſo neceſſary a connexion with this nature and ſtate of man, that they are abſolutely inſeparable. If to all this we join what has been already obſerved in the foregoing chapters, we cannot, methinks, miſtake the laws of nature, or doubt of their reality, without renouncing the pureſt light of reaſon, and running into Pyrrhoniſm.

of nature have been eſtabliſhed, is a freſh proof of the reality of thoſe laws.

IV. But as the principles of the laws of nature are, through the wiſdom of the Creator, eaſy to diſcover, and as the knowledge of the duties they impoſe on us, is within the reach of the moſt ordinary capacities; it is alſo certain, that theſe laws are far from being impracticable. On the contrary, they bear ſo manifeſt a proportion to the light of right reaſon, and to our moſt natural inclinations; they have alſo ſuch a relation to our perfection and happineſs; that they cannot be conſidered otherwiſe than as an effect of the divine goodneſs towards man. Since no other motive but that of doing good, could ever induce a being, who is ſelf-exiſtent, and ſupremely happy, to form creatures endowed with underſtanding and ſenſe; it muſt have been in conſequence of this ſame goodneſs that he firſt vouchſafed to direct

Natural laws are the effect of the divine goodneſs.

them by laws. His view was not merely to reſtrain their liberty; but he thought fit to let them know what agreed with them beſt, what was moſt proper for their perfection and happineſs; and in order to add greater weight to the reaſonable motives that were to determine them, he joined thereto the authority of his commands *.

This gives us to underſtand why the laws of nature are ſuch as they are. It was neceſſary, purſuant to the views of the Almighty, that the laws he preſcribed to mankind, ſhould be ſuitable to their nature and ſtate; that they ſhould have a tendency of themſelves to procure the perfection and advantage of individuals, as well as of the ſpecies; of particular people, as well as of the ſociety. In ſhort, the choice of the end determined the nature of the means.

The laws of nature do not depend on an arbitrary inſtitution.

V. In fact, there are natural and neceſſary differences in human actions, and in the effects by them produced. Some agree of themſelves with the nature and ſtate of man, while others diſagree, and are quite oppoſite thereto; ſome contribute to the production and maintenance of order, others tend to ſubvert it; ſome procure the perfection and happineſs of mankind, others are attended with their diſgrace and miſery. To refuſe to acknowledge theſe differences, would be ſhutting one's eyes to the light, and confounding it with darkneſs. Theſe are differences of a moſt ſenſible nature; and whatever a perſon may ſay to the contrary, ſenſe and

* See part i. chap. x. § 3.

experience will always refute thoſe falſe and idle ſubtleties.

Let us not therefore ſeek any where elſe but in the very nature of human actions, in their eſſential differences and conſequences, for the true foundation of the laws of nature, and why God forbids ſome things, while he commands others. Theſe are not arbitrary laws, ſuch as God might not have given, or have given others of a quite different nature. Supreme wiſdom can no more than ſupreme power act any thing abſurd and contradictory. It is the very nature of things that always ſerves for the rule of his determinations. God was at liberty, without doubt, to create or not to create man; to create him ſuch as he is, or to give him a quite different nature. But having determined to form a rational and ſocial being, he could not preſcribe any thing unſuitable to ſuch a creature. We may even affirm, that the ſuppoſition which makes the principles and rules of the law of nature depend on the arbitrary will of God, tends to ſubvert and deſtroy even the very idea of natural law. For if theſe laws were not a neceſſary conſequence of the nature, conſtitution, and ſtate of man, it would be impoſſible for us to have a certain knowledge of them, except by a very clear revelation, or by ſome other formal promulgation on the part of God. But agreed it is, that the law of nature is, and ought to be known by the mere light of reaſon. To conceive it therefore as depending on an arbitrary will, would be attempting to ſubvert it, or at leaſt would be reducing the thing to a kind of Pyrrhoniſm; by reaſon we could have no natural means of being

ſure

ſure that God commands or forbids one thing rather than another. Hence, if the laws of nature depend originally on divine inſtitution, as there is no room to queſtion; we muſt likewiſe agree, that this is not a mere arbitrary inſtitution, but founded, on one ſide, on the very nature and conſtitution of man; and, on the other, on the wiſdom of God, who cannot deſire an end, without deſiring at the ſame time the means that alone are fit to obtain it.

Our opinion is not very wide from that of Grotius.

VI. It is not amiſs to obſerve here, that the manner in which we eſtabliſh the foundation of the law of nature, does not differ in the main from the principles of Grotius. Perhaps this great man might have explained his thoughts a little better. But we muſt own that his commentators, without excepting Puffendorf himſelf, have not rightly underſtood his meaning, and conſequently have paſſed a wrong cenſure on him, by pretending, that the manner in which he eſtabliſhed the foundation of the law of nature, is reduced to a vicious circle. *If we aſk*, ſays Puffendorf*, *which are thoſe things that form the matter of natural laws? the anſwer is, that they are thoſe which are honeſt or diſhoneſt of their own nature. If we inquire afterwards, what are thoſe things that are honeſt or diſhoneſt of their own nature? there can be no other anſwer given, but that they are thoſe which form the matter of natural laws.* This is what the critics put into the mouth of Grotius.

* See Puffendorf, Law of Nature and Nations, book ii. chap. iii. § 4. Apol. § 19.

But

But let us ſee whether Grotius ſays really any ſuch thing. *The law of nature*, ſays he *, *conſiſts in certain principles of right reaſon, which inform us, that an action is morally honeſt or diſhoneſt, according to the neceſſary agreeableneſs or diſagreeableneſs it has with a rational and ſociable nature; and conſequently that God, who is the author of nature, commands or forbids ſuch actions.* Here I can ſee no circle: For putting the queſtion, whence comes the natural honeſty or turpitude of commanded or forbidden actions? Grotius does not anſwer in the manner they make him; on the contrary, he ſays that this honeſty or turpitude proceeds from the neceſſary agreeableneſs or diſagreeableneſs of our actions with a rational and ſocial nature †.

VII. After having ſeen that the laws of nature are practicable of themſelves, evidently uſeful, highly conformable to the ideas which right reaſon gives us of God, ſuitable to the nature and ſtate of man, perfectly agreeable to order, and, in fine, ſufficiently notified; there is no longer room to queſtion, but laws inveſted with all theſe characteriſtics, are obligatory, and lay men under an indiſpenſable obligation of conforming their conduct to them. It is even certain, that the obligation which God impoſes on us by this means, is the ſtrongeſt of all, by reaſon of its being produced by the concurrence and union of the ſtrongeſt motives, ſuch as are moſt

The effect of the laws of nature, is an obligation of conforming thereto our conduct.

* See Grotius, Rights of War and Peace, book i. chap. i. § 10.

† See Barbeyrac's fifth note on the Law of Nature and Nations, book ii. chap. iii. § 4.

proper

proper to determine the will. In fact, the counſels and maxims of reaſon oblige us, not only becauſe they are in themſelves very agreeable, and founded on the nature and immutable relations of things; but moreover by the authority of the ſupreme Being, who intervenes here, by giving us clearly to underſtand he is willing we ſhould obſerve them, becauſe of his being the author of this nature of things, and of the mutual relations they have among themſelves. In fine, the law of nature binds us by an internal and external obligation at the ſame time; which produces the higheſt degree of moral neceſſity, and reduces liberty to the very ſtrongeſt ſubjection, without deſtroying it *.

Thus the obedience due to natural law is a ſincere obedience, and ſuch as ought to ariſe from a conſcientious principle. The firſt effect of thoſe laws is to direct the ſentiments of our minds, and the motions of the heart. We ſhould not diſcharge what they require of us, were we externally to abſtain from what they condemn, but with regret and againſt our will. And as it is not allowable to deſire what we are not permitted to enjoy; ſo it is our duty not only to practiſe what we are commanded, but likewiſe to give it our approbation, and to acknowledge its utility and juſtice.

Natural laws are obligatory in reſpect to all men.

VIII. Another eſſential characteriſtic of the laws of nature is, that they be univerſal, that is, they ſhould oblige all men without exception. For men are not only all equally ſubject to God's command; but moreover, the laws of nature having their foun-

* See part i. chap. vi. § 13.

dation

dation in the conſtitution and ſtate of man, and being notified to him by reaſon, it is plain they have an eſſential agreeableneſs to all mankind, and oblige them without diſtinction; whatever difference there may be between them in fact, and in whatever ſtate they are ſuppoſed. This is what diſtinguiſhes natural from poſitive laws; for a poſitive law relates only to particular perſons or ſocieties.

Grotius's opinion with regard to divine, poſitive, and univerſal law.

IX. It is true that Grotius *, and after him ſeveral divines and civilians, pretend that there are divine, poſitive, and univerſal laws, which oblige all men, from the very moment they are made ſufficiently known to them. But in the firſt place, were there any ſuch laws, as they could not be diſcovered by the ſole light of reaſon, they muſt have been very clearly manifeſted to all mankind; a thing which cannot be fully proved: And if it ſhould be ſaid, that they oblige only thoſe to whom they are made known; this deſtroys the idea of univerſality attributed to them, by ſuppoſing that thoſe laws were made for all men. Secondly, the divine, poſitive, and univerſal laws, ought to be moreover of themſelves beneficial to all mankind, at all times, and in all places; and this the wiſdom and goodneſs of God requires. But for this purpoſe theſe laws ſhould have been founded on the conſtitution of human nature in general, and then they would be true natural laws †.

* See Rights of War and Peace, book i. chap. i. § 15. with Barbeyrac's notes.

† See Barbeyrac's ſixth note on Puffendorf's Law of Nature and Nations, book i. chap. xi. § 18.

X. We

Natural laws are immutable, and admit of no diſpenſation.

X. We have already obſerved, that the laws of nature, though eſtabliſhed by the divine will, are not the effect of an arbitrary diſpoſition, but have their foundation in the very nature and mutual relations of things. Hence it follows, that natural laws are immutable, and admit of no diſpenſation. This is alſo a proper characteriſtic of theſe laws, which diſtinguiſhes them from all poſitive law, whether divine or human.

This immutability of the laws of nature has nothing in it repugnant to the independance, ſupreme power, or liberty of an all-perfect Being. Since he himſelf is the author of our conſtitution, he cannot but preſcribe or prohibit ſuch things as have a neceſſary agreeableneſs or diſagreeableneſs to this very conſtitution; and conſequently he cannot make any change, or give any diſpenſation, in regard to the laws of nature*. It is a glorious neceſſity in him not to contradict himſelf; it is a kind of impotency falſely ſo called, which, far from limiting or diminiſhing his perfections, adds to their external character, and points out all their excellency.

Of the eternity of natural laws.

XI. Conſidering the thing as has been now explained, we may ſay, if we will, that the laws of nature are eternal; though, to tell the truth, this expreſſion is very incorrect of itſelf, and more adapted to throw obſcurity than clearneſs upon our

* See Puffendorf, Law of Nature and Nations, book ii. chap. iii. § 6. and Grotius, Rights of War and Peace, book i. chap. i. § 10.

ideas.

ideas. Thoſe who firſt took notice of the eternity of the laws of nature, did it very probably out of oppoſition to the novelty and frequent mutations of civil laws. They meant only, that the law of nature is antecedent, for example, to the laws of Moſes, of Solon, or of any other legiſlator, in that it is coeval with mankind; and ſo far they were in the right. But to affirm, as a great many divines and moraliſts have done, that the law of nature is coeternal with God, is advancing a propoſition, which reduced to its juſt value is not exactly true; by reaſon that the law of nature being made for man, its actual exiſtence ſuppoſeth that of mankind. But if we are only to underſtand hereby, that God had the ideas thereof from all eternity, then we attribute nothing to the laws of nature but what is equally common to every thing that exiſts *.

We cannot finiſh this article better than with a beautiful paſſage of Cicero, preſerved by Lactantius. † *Right reaſon*, ſays this philoſopher, *is indeed a true law*,

* The immutability of the laws of nature is acknowledged by all thoſe who reaſon with any exactneſs. See Inſtit. lib. 1. tit. 2. § 11. Noodt. Probabil. Juris, lib. 2. cap. 11.

† Eſt quidem vera lex, recta ratio, naturæ congruens, diffuſa in omnes, conſtans, ſempiterna, quæ vocet ad officium jubendo, vetando a fraude deterreat: quæ tamen neque probos fruſtra jubet, aut vetat; nec improbos jubendo aut vetando movet. Huic legi nec obrogari fas eſt, neque derogari ex hac aliquid licet; neque tota abrogari poteſt. Nec verò aut per ſenatum, aut per populum ſolvi hac lege poſſumus: neque eſt quærendus explanator aut interpres ejus alius. Nec erit alia lex Romæ, alia Athenis, alia nunc, alia poſthac; ſed omnes gentes, & omni tempore, una lex & ſempiterna & immutabilis continebit; unuſque erit communis quaſi magiſter & imperator omnium Deus. Ille legis hujus inventor, diſceptator, lator: cui qui non parebit

*law, agreeable to nature, common to all men, conſtant, immutable, eternal. It prompts men to their duty by its commands, and deters them from evil by its prohibitions.—It is not allowed to retrench any part of this law, or to make any alteration therein, much leſs to aboliſh it intirely. Neither the ſenate nor people can diſpenſe with it; nor does it require any interpretation, being clear of itſelf and intelligible. It is the ſame at Rome and Athens; the ſame to-day and to-morrow. It is the ſame eternal and invariable law, given at all times and places, to all nations; becauſe God, who is the author thereof, and has publiſhed it himſelf, is always the ſole maſter and ſovereign of mankind. Whoſoever violates this law, renounces his own nature, diveſts himſelf of humanity, and will be rigorouſly chaſtiſed for his diſobedience, though he were to eſcape what is commonly diſtinguiſhed by the name of puniſhment.*

But let this ſuffice in regard to the law of nature conſidered as a rule to individuals. In order to embrace the intire ſyſtem of man, and to unfold our principles in their full extent, it is neceſſary we ſay ſomething likewiſe concerning the rules which nations ought to obſerve between each other, and are commonly called *the law of nations.*

rebit ipſe ſe fugiet, ac naturam hominis, aſpernabitur; atque hoc ipſo luet maximas pœnas etiamſi cætera ſupplicia, quæ putantur, effugerit. *Cicero de Republ. lib.* 3. *apud Lactant. Inſtit. Divin. lib.* 6. *cap.* 8.

CHAP.

## CHAP. VI.

### *Of the law of nations.*

I. AMONG the various eſtabliſhments of man, the moſt conſiderable without doubt is that of civil ſociety, or the body politic, which is juſtly eſteemed the moſt perfect of ſocieties, and has obtained the name of *State* by way of preference. How civil ſocieties are formed.

Human ſociety is ſimply, of itſelf, and with regard to thoſe who compoſe it, a ſtate of equality and independance. It is ſubject to God alone; no one has a natural and primitive right to command; but each perſon may diſpoſe of himſelf, and of what he poſſeſſes, as he thinks proper, with this only reſtriction, that he keep within the bounds of the law of nature, and do no prejudice or injury to any man.

The civil ſtate makes a great alteration in this primitive one. The eſtabliſhing a ſovereignty ſubverts this independance wherein men were originally with regard to one another; and ſubordination is ſubſtituted in its ſtead. The ſovereign becoming the depoſitary as it were of the will and ſtrength of each individual, which are united in his perſon, all the other members of the ſociety become ſubjects, and find themſelves under an obligation of obeying and conducting themſelves purſuant to the laws impoſed upon them by the ſovereign.

II. But how great ſoever the change may be which government and ſovereignty make in the ſtate of nature, yet we muſt not imagine that the civil ſtate pro- The civil ſtate does not deſtroy, but improve the ſtate of nature.

properly ſubverts all natural ſociety, or that it deſtroys the eſſential relations which men have among themſelves, or thoſe between God and man. This would be neither phyſically nor morally poſſible: on the contrary, the civil ſtate ſuppoſes the nature of man, ſuch as the Creator has formed it; it ſuppoſes the primitive ſtate of union and ſociety, with all the relations this ſtate includes; it ſuppoſes, in fine, the natural dependance of man with regard to God and his laws. Government is ſo far from ſubverting this firſt order, that it has been rather eſtabliſhed with a view to give it a new degree of force and conſiſtency. It was intended to enable us the better to diſcharge the duties preſcribed by natural laws, and to attain more certainly the end for which we were created.

True ideas of civil ſociety.

III. In order to form a juſt idea of civil ſociety, we muſt ſay, that it is no more than natural ſociety itſelf modified in ſuch a manner, as to have a ſovereign that commands, and on whoſe will whatever concerns the happineſs of ſociety, ultimately depends; to the end that under his protection and through his care mankind may ſurely attain the felicity to which they naturally aſpire.

States are conſidered under the notion of moral perſons.

IV. All ſocieties are formed by the concurrence or union of the wills of ſeveral perſons, with a view of acquiring ſome advantage. Hence it is that ſocieties are conſidered as bodies, and receive the appellation of moral perſons; by reaſon that thoſe bodies are in effect animated with one ſole will, which regulates all their movements. This agrees particularly with the

the body politic or ſtate. The ſovereign is the chief or head, and the ſubjects the members; all their actions that have any relation to ſociety, are directed by the will of the chief. Hence, ſo ſoon as ſtates are formed, they acquire a kind of perſonal properties: and we may conſequently, with due proportion, attribute to them whatever agrees in particular with man; ſuch as certain actions and rights that properly belong to them, certain duties they are obliged to fulfill, &c.

What is the law of nations.

V. This being ſuppoſed, the eſtabliſhment of ſtates introduces a kind of ſociety amongſt them, ſimilar to that which is naturally between men; and the ſame reaſons which induce men to maintain union among themſelves, ought likewiſe to engage nations or their ſovereigns to keep up a good underſtanding with one another.

It is neceſſary therefore there ſhould be ſome law among nations, to ſerve as a rule for mutual commerce. Now this law can be nothing elſe but the law of nature itſelf, which is then diſtinguiſhed by the name of the law of nations. *Natural law*, ſays Hobbes very juſtly,* *is divided into the natural law of man, and the natural law of ſtates:* and the latter is what we call the *law of nations.* Thus natural law and the law of nations are in reality one and the ſame thing, and differ only by an external denomination. We muſt therefore ſay, that the law of nations properly ſo called, and conſidered as a law proceeding from a ſuperior, is nothing elſe, but the law of nature itſelf, not applied to men conſidered ſimply as ſuch;

* De Cive, cap. 14. § 4.

but to nations, ſtates, or their chiefs, in the relations they have together, and the ſeveral intereſts they have to manage between each other.

Certainty of this law.

VI. There is no room to queſtion the reality and certainty of ſuch a law of nations obligatory of its own nature, and to which nations, or the ſovereigns that rule them, ought to ſubmit. For if God, by means of right reaſon, impoſes certain duties between individuals, it is evident he is likewiſe willing that nations, which are only human ſocieties, ſhould obſerve the ſame duties between themſelves *.

General principle of the law of nations; what polity conſiſts in.

VII. But in order to ſay ſomething more particular concerning this ſubject, let us obſerve that the natural ſtate of nations, in reſpect to each other, is that of ſociety and peace. This ſociety is likewiſe a ſtate of equality and independance, which eſtabliſhes a parity of right between them; and engages them to have the ſame regard and reſpect for one another. Hence the general principle of the law of nations is nothing more than the general law of ſociability, which obliges all nations, that have any intercourſe with one another, to practiſe thoſe duties to which individuals are naturally ſubject.

Theſe remarks may ſerve to give us a juſt idea of that art, ſo neceſſary to the directors of ſtates, and diſtinguiſhed commonly by the name of *Polity*. Polity conſidered with regard to foreign ſtates, is that ability and addreſs by which a ſovereign provides for the preſervation, ſafety, proſperity and glory of the nation he governs, by reſpecting the laws of juſtice

* See chap. v. § 8.

and

and humanity; that is, without doing any injury to other ſtates, but rather by procuring their advantage, ſo much as in reaſon can be expected. Thus the polity of ſovereigns is the ſame as prudence among private people; and as we condemn in the latter any art or cunning, that makes them purſue their own advantage to the prejudice of others, ſo the like art would be cenſurable in princes, were they bent upon procuring the advantage of their own people by injuring other nations. The *Reaſon of ſtate*, ſo often alledged to juſtify the proceedings or enterpriſes of princes, cannot really be admitted for this end, but inaſmuch as it is reconcileable with the common intereſt of nations, or, which amounts to the ſame thing, with the unalterable rules of ſincerity, juſtice, and humanity.

Inquiry into Grotius's opinion concerning the law of nations.

VIII. Grotius indeed acknowledges that the law of nature is common to all nations; yet he eſtabliſhes a poſitive law of nations contradiſtinct from the law of nature; and reduces this law of nations to a ſort of human law, which has acquired a power of obliging in conſequence of the will and conſent of all or of a great many nations *. He adds, that the maxims of this law of nations are proved by the perpetual practice of people, and the teſtimony of hiſtorians.

But it has been juſtly obſerved that this pretended law of nations, contradiſtinct from the law of nature, and inveſted nevertheleſs with a force of obliging,

* See Grotius, Rights of War and Peace: preliminary diſcourſe, § 18. and book i. chap. i. § 14.

whether the people conſent to it or not, is a ſuppoſition deſtitute of all foundation*.

For 1. all nations are with regard to one another in a natural independance and equality. If there be therefore any common law between them, it muſt proceed from God their common ſovereign.

2. As for what relates to cuſtoms eſtabliſhed by an expreſs or tacit conſent among nations, theſe cuſtoms are neither of themſelves nor univerſally, nor always obligatory. For from this only that ſeveral nations have acted towards one another for a long time after a particular manner in particular caſes, it does not follow that they have laid themſelves under a neceſſity of acting always in the ſame manner for the time to come, and much leſs that other nations are obliged to conform to thoſe cuſtoms.

3. Again; thoſe cuſtoms are ſo much the leſs capable of being an obligatory rule of themſelves, as they may happen to be bad or unjuſt. The profeſſion of a corſair or pirate was, by a kind of conſent, eſteemed a long while lawful, between nations that were not united by alliance or treaty. It ſeems likewiſe, that ſome nations allowed themſelves the uſe of poiſoned arms in time of war†, Shall we ſay that theſe were cuſtoms authoriſed by the law of nations, and really obligatory in reſpect to different people? Or ſhall we not rather conſider them as barbarous practices; from which every juſt and well-governed nation ought to refrain? We can-

* See Puffendorf, Law of Nature and Nations, book ii. chap. iii. § 23. with Barbeyrac's notes.

† See Virgil, Æneid, book x. ver. 139, with the 15th note of the Abbè des Fontaines.

not therefore avoid appealing always to the law of nature, the only one that is really univerſal, whenever we want to judge whether the cuſtoms eſtabliſhed between nations have any obligatory effect.

4. All that can be ſaid on this ſubject is, that when cuſtoms of an innocent nature are introduced among nations; each of them is reaſonably ſuppoſed to ſubmit to thoſe cuſtoms, ſo long as they have not made any declaration to the contrary. This is all the force or effect that can be given to received cuſtoms; but a very different effect from that of a law properly ſo called.

IX. Theſe remarks give us room to conclude, that the whole might perhaps be reconciled, by diſtinguiſhing two ſpecies of laws of nations. There is certainly an univerſal, neceſſary, and ſelf-obligatory law of nations, which differs in nothing from the law of nature, and is conſequently immutable, inſomuch that the people or ſovereigns cannot diſpenſe with it, even by common conſent, without tranſgreſſing their duty. There is, beſides, another law of nations, which we may call arbitrary and free, as founded only on an expreſs or tacit convention; the effect of which is not of itſelf univerſal; being obligatory only in regard to thoſe who have voluntarily ſubmitted thereto, and only ſo long as they pleaſe, becauſe they are always at liberty to change or repeal it. To which we muſt likewiſe add, that the whole force of this ſort of law of nations ultimately depends on the law of nature, which commands us to be true to our engagements. Whatever really belongs to the law of nations, may be reduced to one or other of theſe

Two ſorts of laws of nations; one of neceſſity and obligatory by itſelf; the other arbitrary and conventional.

two ſpecies, and the uſe of this diſtinction will eaſily appear by applying it to particular queſtions which relate either to war, for example, to ambaſſadors, or to public treaties, and to the deciding of diſputes which ſometimes ariſe concerning theſe matters between ſovereigns *.

Uſe of the foregoing remarks.

X. It is a point of importance to attend to the origin and nature of the law of nations, ſuch as we have now explained them. For beſides that it is al-

* Let us remark here by the way, that the ideas of the ancient Roman lawyers concerning the law of nations, are not always uniform; which creates ſome confuſion. Some there are that underſtand by the LAW OF NATIONS thoſe rules of right that are common to all men, and eſtabliſhed amongſt themſelves purſuant to the light of reaſon; in oppoſition to the particular laws of each people. (See the 9th law in the Digeſt. de Juſtitia & Jure, book 1. tit. 1.) And then the law of nations ſignified alſo the law of nature. Others diſtinguiſhed between theſe two ſpecies, as *Ulpian* has done in law I. of the title now mentioned. They gave the name of *law of nations* to that which agrees with man as ſuch; in oppoſition to that which ſuits him as an animal. (See *Puffendorf*, Law of Nature and Nations, book 2. chap. 3. § 3. note 10.) Some, in fine, compriſed the one and the other under the idea *of natural law*. (See law XI. Digeſt. de Juſtitia & Jure.) And hence it comes, that the better ſort of Latin writers give indifferently the name of natural law, or the law of nations, to that which relates to either. This we find in the following paſſage of *Cicero*, where he ſays, that by the law of nature, that is, by the law of nations, one man is not allowed to purſue his advantage at the expence of another. Neque vero hoc ſolum NATURA, id eſt, JURE GENTIUM——conſtitutum eſt, ut non liceat ſui commodi cauſa, alteri nocere. De Offic. lib. 3. cap. 5. See Mr. Noodt's commentary on the Digeſt. book 1. tit. 1. where this able lawyer explains very well the ambiguity of the diſtinction of natural law, and the law of nations, according to the different language of ancient civilians.

ways advantageous to form juſt ideas of things, this is ſtill more neceſſary in matters of practice and morality. It is owing perhaps to our diſtinguiſhing the law of nations from natural law, that we have inſenſibly accuſtomed ourſelves to form quite a different judgment between the actions of ſovereigns and thoſe of private people. Nothing is more uſual than to ſee men condemned in common, for things which we praiſe, or at leaſt excuſe in the perſons of princes. And yet it is certain, as we have already ſhewn, that the maxims of the law of nations have an equal authority with thoſe of the law of nature, and are equally reſpectable and ſacred, becauſe they have God alike for their author. In ſhort, there is only one ſole and the ſame rule of juſtice for all mankind. Princes who infringe the law of nations, commit as great a crime as private people, who violate the law of nature: and if there be any difference in the two caſes, it muſt be charged to the prince's account*, whoſe unjuſt actions are always attended with more dreadful conſequences than thoſe of private people †.

* See part i. chap. xi. § 12.

† It is Monſieur Bernard that furniſhes us with thoſe reflections: If a private perſon, *ſays he*, offends without cauſe a perſon of the ſame ſtation, his action is termed an injuſtice; but if a prince attacks another prince without cauſe, if he invades his territories, and ravages his towns and provinces, this is called waging war, and it would be temerity to think it unjuſt. To break or violate contracts or agreements, is eſteemed a crime among private people: but among princes, to infringe the moſt ſolemn treaties, is prudence, is underſtanding the art of government. True it is, that ſome pretext is always ſought for, but thoſe who trump up theſe pretexts, give themſelves very little trouble whether they are thought juſt or not, &c. *Nouvelles de la republique des lettres, Mars* 1704. page 340, 341.

CHAP.

## CHAP. VII.

### *Whether there is any morality of actions, any obligation or duty,* ANTECEDENT TO THE LAWS OF NATURE, *and independent of the idea of a legiſlator?*

Different opinions of ethic writers with reſpect to the firſt principle of morality.

I. THE morality of human actions being founded, in general, on the relations of agreeableneſs or diſagreeableneſs between thoſe actions and the law, according as we have ſhewn in the eleventh chapter of the firſt part; there is no difficulty, when once we acknowledge the laws of nature, to affirm, that the morality of actions depends on their conformity or oppoſition to thoſe very laws. This is a point on which all civilians and ethic writers are agreed. But they are not ſo unanimous in regard to the firſt principle or original cauſe of obligation and morality.

A great many are of opinion, that there is no other principle of morality but the divine will, manifeſted by the laws of nature. The idea of *morality*, they ſay, neceſſarily includes that of obligation; obligation ſuppoſes law; and law a legiſlator. If therefore we abſtract from all law, and conſequently from a legiſlator, we ſhall have no ſuch thing as right, obligation, duty, or morality, properly ſo called *.

* See Puffendorf, Law of Nature and Nations, book i. chap. ii. § 6.

Others

Others there are, who acknowledge indeed that the divine will is really a principle of obligation, and conſequently a principle of the morality of human actions; but they do not ſtop here. They pretend, that antecedent to all law, and independent of a legiſlator, there are things which of themſelves, and by their own nature, are honeſt or diſhoneſt; that reaſon having once diſcovered this eſſential and ſpecific difference of human actions, it impoſes on man a neceſſity of performing the one and omitting the other; and that this is the firſt foundation of obligation, or the original ſource of morality and duty.

Principles relating to this queſtion.

II. What we have already ſaid concerning the primitive rule of human actions, and the nature and origin of obligation*, may help to throw ſome light on the preſent queſtion. But in order to illuſtrate it better, let us turn back and reſume the thing from its firſt principles, by endeavouring to aſſemble here, in a natural order, the principal ideas that may lead us to a juſt concluſion.

1. I obſerve in the firſt place, that every action, conſidered purely and ſimply in itſelf as a natural motion of the mind or body, is abſolutely indifferent, and cannot in this reſpect claim any ſhare of morality.

This is what evidently appears; foraſmuch as the ſame natural action is eſteemed ſometimes lawful and even good, and at other times unlawful or bad. To kill a man, for inſtance, is a bad action in a robber; but it is lawful or good in an executioner, or in a citizen or ſoldier that defends his life or coun-

* See part i. chap. v. & vi.

try,

try, unjuſtly attacked: a plain demonſtration, that this action conſidered in itſelf, and as a ſimple operation of the natural faculties, is abſolutely indifferent and deſtitute of all morality.

2. We muſt take care to diſtinguiſh here between the phyſical and moral conſideration. There is undoubtedly a kind of natural goodneſs or malignity in actions, which by their own proper and internal virtue are beneficial or hurtful, and produce the phyſical good or evil of man. But this relation between the action and its effect is only phyſical; and if we ſtop here, we are not yet arrived at morality. It is pity we are frequently obliged to uſe the ſame expreſſions for the phyſical and moral ideas, which is apt to create ſome confuſion. It were to be wiſhed that languages had a greater exactneſs in diſtinguiſhing the nature and different relations of things by different names.

3. If we proceed further, and ſuppoſe that there is ſome rule of human actions, and compare afterwards theſe actions to the rule; the relation reſulting from this compariſon is what properly and eſſentially conſtitutes morality *.

4. From thence it follows, that in order to know which is the principal or efficient cauſe of the morality of human actions, we muſt previouſly be acquainted with their rule.

5. Finally let us add, that this rule of human actions may in general be of two ſorts, either internal or external; that is, it may be either found in man himſelf, or it muſt be ſought for ſomewhere elſe. Let us now make an application of theſe principles.

* See part i. chap. xi. § 1.

III. We

III. We have already ſeen * that man finds within himſelf ſeveral principles to diſcern good from evil, and that theſe principles are ſo many rules of his conduct. Three rules of human actions. 1. Moral ſenſe. 2. Reaſon. 3. The divine will.

The firſt directive principle we find within ourſelves is a kind of inſtinct, commonly called moral ſenſe; which pointing out readily, though confuſedly and without reflection, the moſt ſenſible and moſt ſtriking part of the difference between good and evil, makes us love the one, and gives us an averſion for the other, by a kind of natural ſentiment.

The ſecond principle is reaſon, or the reflection we make on the nature, relations, and conſequences of things; which gives us a more diſtinct knowledge, by principles and rules, of the diſtinction between good and evil in all poſſible caſes.

But to theſe two internal principles we muſt join a third, namely, the divine will. For man being the handy work of God, and deriving from the Creator his exiſtence, his reaſon, and all his faculties; he finds himſelf thereby in an abſolute dependance on that ſupreme being, and cannot help acknowledging him as his lord and ſovereign. Therefore, as ſoon as he is acquainted with the intention of God in regard to his creature, this will of his maſter becomes his ſupreme rule, and ought abſolutely to determine his conduct.

IV. Let us not ſeparate theſe three principles. They are indeed diſtinct from one another, and have each their particular force; but in the actual ſtate of man they are neceſſarily united. It is ſenſe that Theſe three principles ought to be united.

* Part i. chap. v. and part ii. chap. iii.

gives

gives us the firſt notice; our reaſon adds more light; and the will of God, who is rectitude itſelf, gives it a new degree of certainty; adding withal the weight of his authority. It is on all theſe foundations united, we ought to raiſe the edifice of natural law, or the ſyſtem of morality.

Hence it follows, that man being a creature of God, formed with deſign and wiſdom, and endowed with ſenſe and reaſon; the rule of human actions, or the true foundation of morality, is properly the will of the ſupreme Being, manifeſted and interpreted, either by moral ſenſe or by reaſon. Theſe two natural means, by teaching us to diſtinguiſh the relation which human actions have to our conſtitution, or, which is the ſame thing, to the ends of the Creator, inform us what is morally good or evil, honeſt or diſhoneſt, commanded or forbidden.

Of the primitive cauſe of obligation.

V. It is already a great matter to feel and to know good and evil; but this is not enough; we muſt likewiſe join to this ſenſe and knowledge, an obligation of doing the one, and abſtaining from the other. It is this obligation that conſtitutes duty, without which there would be no moral practice, but the whole would terminate in mere ſpeculation. But which is the cauſe and principle of obligation and duty? Is it the very nature of things diſcovered by reaſon? Or is it the divine will? This is what we muſt endeavour here to determine.

All rules are of themſelves obligatory.

VI. The firſt reflection that occurs to us here, and to which very few, methinks, are ſufficiently attentive, is, that every rule whatſoever of human actions,

actions, carries with it a moral neceſſity of conforming thereto, and produces conſequently a ſort of obligation. Let us illuſtrate this remark.

The general notion of rule preſents us with the idea of a ſure and expeditious method to attain a particular end. Every rule ſuppoſes therefore a deſign, or the will of attaining to a certain end, as the effect we want to produce, or the object we intend to procure. And it is perfectly evident, that were a perſon to act merely for the ſake of acting, without any particular deſign or determinate end; he ought not to trouble his head about directing his actions one way more than another; he ſhould never mind either counſel or rule. This being premiſed, I affirm that every man who propoſes to himſelf a particular end, and knows the means or rule which alone can conduct him to it, and put him in poſſeſſion of what he deſires, ſuch a man finds himſelf under a neceſſity of following this rule, and of conforming his actions to it. Otherwiſe he would contradict himſelf; he would and he would not; he would deſire the end, and neglect the only means which by his own confeſſion are able to conduct him to it. Hence I conclude, that every rule acknowledged as ſuch, that is, as a ſure and only means of attaining the end propoſed, carries with it a ſort of obligation of being thereby directed. For ſo ſoon as there is a *reaſonable neceſſity* to prefer one manner of acting to another, every reaſonable man, and who intends to behave as ſuch, finds himſelf thereby engaged and tied, as it were, to this manner, being hindered by his reaſon from acting to the contrary. That is, in

other

other terms, he is really obliged; becauſe obligation, in its original idea, is nothing more than a reſtriction of liberty, produced by reaſon, inaſmuch as the counſels which reaſon gives us, are motives that determine us to a particular manner of acting, preferable to any other. It is therefore true, that all rules are obligatory.

Obligation may be more or leſs ſtrong.

VII. This obligation, indeed, may be more or leſs ſtrong, more or leſs ſtrict, according as the reaſons on which it is founded are more or leſs numerous, and have more or leſs power and efficacy of themſelves to determine the will.

If a particular manner of acting appears to me evidently fitter than any other for my preſervation and perfection, fitter to procure my bodily health and the welfare of my ſoul; this motive alone obliges me to act in conformity to it: And thus we have the firſt degree of obligation. If I find afterwards, that beſides the advantage now mentioned, ſuch a conduct will ſecure the reſpect and approbation of thoſe with whom I converſe; this is a new motive which ſtrengthens the preceding obligation, and adds ſtill more to my engagement. But if, by puſhing my reflections ſtill farther, I find at length that this manner of acting is perfectly agreeable to the intention of my Creator, who is willing and intends I ſhould follow the counſels which reaſon gives me, as ſo many real laws he preſcribes to me himſelf; it is viſible, that this new conſideration ſtrengthens my engagement, ties the knot ſtill faſter, and lays me under an indiſpenſable neceſſity of acting after ſuch or ſuch a manner. For what is there more

more proper to determine finally a rational being, than the aſſurance he has of procuring the approbation and benevolence of his ſuperior, by acting in conformity to his will and orders; and of eſcaping his indignation, which muſt infallibly purſue a rebellious creature.

VIII. Let us follow now the thread of the conſequences ariſing from theſe principles.

Reaſon alone is ſufficient to impoſe ſome obligation on man.

If it be true, that every rule is of itſelf obligatory, and that reaſon is the primitive rule of human actions; it follows, that reaſon only, independent of the law, is ſufficient to impoſe ſome obligation on man, and conſequently to furniſh room for morality and duty, commendation and cenſure.

There will remain no manner of doubt on this ſubject, if abſtracting for a moment from ſuperiority and law, we examine at firſt the ſtate of man alone, conſidered merely as a rational being. Man propoſes to himſelf his own good, that is, the welfare of his body and ſoul. He ſearches afterwards for the means of procuring thoſe advantages; and ſo ſoon as he has diſcovered them, he approves of ſome particular actions, and condemns others; and conſequently he approves or condemns himſelf, according as he acts after a manner conformable or oppoſite to the dictates of his reaſon. Does not all this evidently demonſtrate, that reaſon puts a reſtraint on liberty, and lays us therefore under an obligation of doing or abſtaining from particular things?

Let us proceed. Suppoſe that man in the foremention'd ſtate becomes the father of a family, and has a mind to act reaſonably; would it be an indif-

ferent thing to him, to take care of, or to neglect his children, to provide for their ſubſiſtence and education, or to do neither one nor the other? Is it not, on the contrary, evident, that as this different conduct neceſſarily procures either the good or evil of his family; the approbation or cenſure which reaſon gives it, renders it morally good or bad, worthy of praiſe or blame?

It would be an eaſy matter to purſue this way of arguing, and apply it to all the ſtates of man. But what we have already ſaid, ſhews it is ſufficient to conſider man as a rational being, to be convinced that reaſon pointing out the road which alone can lead him to the end he aims at, lays him under a neceſſity of following this road, and of regulating thereby his conduct: that conſequently reaſon alone is ſufficient to eſtabliſh a ſyſtem of morality, obligation, and duties; becauſe when once we ſuppoſe it is reaſonable to do or to abſtain from certain things, this is really owning our obligation.

Objection. Nobody can oblige himſelf.

IX. "But the idea of obligation, ſome will ſay, "imports neceſſarily a being that obliges, and who "ought to be diſtinct from the perſon obliged. To "ſuppoſe that he who obliges, and he who is "obliged, are one and the ſame perſon, is ſuppoſ-"ing that a man may make a contract with him-"ſelf; which is quite abſurd. Right reaſon is, in "reality, nothing but an attribute of the perſon "obliged; it cannot be therefore a principle of "obligation; nobody being capable of impoſing "on himſelf an indiſpenſable neceſſity of acting "or not acting after ſuch or ſuch a manner. For

"ſup-

" ſuppoſing a neceſſity, it muſt not be removeable
" at the will and pleaſure of the perſon ſubject to
" it; otherwiſe it would be void of effect. If there-
" fore the perſon on whom the obligation is im-
" poſed, is the ſame as he who impoſes it, he can
" diſengage himſelf from it whenever he pleaſes;
" or rather, there is no obligation; as when a debtor
" inherits the eſtate and rights of his creditor,
" the debt is void. Now duty is a debt, and neither
" of them can be admitted but between different
" perſons*."

X. This objection is more ſpecious than ſolid. Anſwer.
In fact, thoſe who pretend that there is properly neither obligation nor morality without a ſuperior and law, ought neceſſarily to ſuppoſe one of theſe two things: 1. either that there is no other rule of human actions beſides law: 2. or if there be any other, none but law is an obligatory rule.

The firſt of theſe ſuppoſitions is evidently unſupportable: and after all that has been ſaid concerning this ſubject, we think it quite uſeleſs to ſtop here to refute it. Either reaſon has been idly and without a deſign beſtowed upon man, or we muſt allow it to be the general and primitive rule of his actions and conduct. And what is there more natural than to think that a rational being ought to be directed by reaſon? If we ſhould endeavour to evade this argument, by ſaying, that though reaſon be the rule of human actions, yet there is nothing but law that can be an

* Nemo ſibi debet (*ſays Seneca de Benef. lib.* 5. *cap.* 8.) hoc verbum *debere* non habet niſi inter duos locum.

obligatory rule; this propoſition cannot be maintained, unleſs we conſent to give the name of obligation to ſome other reſtriction of liberty, as well as to that which is produced by the will and order of a ſuperior; and then it would be a mere diſpute about words. Or elſe we muſt ſuppoſe, that there neither actually is, nor can even be conceived, any obligation at all, without the intervention of the will of a ſuperior; which is far from being exactly true.

The ſource of the whole miſtake, or the cauſe of the ambiguity, is our not aſcending to the firſt principles, in order to determine the original idea of obligation. We have already ſaid, and again we ſay it, that every reſtriction of liberty, produced or approved by right reaſon, forms a real obligation. That which properly and formally obliges, is the dictate of our conſcience, or the internal judgment we paſs on ſuch or ſuch a rule, the obſervance whereof appears to us juſt, that is, conformable to the light of right reaſon.

A freſh objection.

XI. "But does not this manner of reaſoning, "ſome will reply, contradict the cleareſt notions, "and ſubvert the ideas generally received, which "make obligation and duty depend on the intervention of a ſuperior, whoſe will manifeſts itſelf by "the law? What ſort of thing is an obligation impoſed by reaſon, or which a man impoſeth upon "himſelf? Cannot he always get rid of it, when he "has a mind; and if the creditor and debtor, as "we have already obſerved, be one and the ſame "perſon, can it be properly ſaid that there is any "ſuch thing as a debt?"

This

This reply is grounded on an ambiguity, or ſuppoſes the thing in queſtion. It ſuppoſes all along, that there neither is, nor can be, any other obligation, but that which proceeds from a ſuperior or law. I agree, that ſuch is the common language of civilians; but this makes no manner of alteration in the nature of the thing. What comes afterwards proves nothing at all. It is true that man may, if he has a mind, withdraw himſelf from the obligations which reaſon impoſes on him; but if he does, it is at his peril, and he is forced himſelf to acknowledge, that ſuch a conduct is quite unreaſonable. But to conclude from thence that reaſon alone cannot oblige us, is going too far; becauſe this conſequence would equally invalidate the obligation impoſed by a ſuperior. For, in fine, the obligation produced by law is not ſubverſive of liberty; we have always a power to ſubmit to it or not, and run the hazard of the conſequence. In ſhort, the queſtion is not concerning force or conſtraint, it is only in relation to a moral tie, which in what manner ſoever it be conſidered, is always the work of reaſon. Anſwer.

XII. True it is, that duty, purſuant to its proper and ſtrict ſignification, is a debt; and that when we conſider it thus, it preſents the idea of an action which ſomebody has a right to require of us. I agree likewiſe, that this manner of conſidering duty is juſt in itſelf. Man conſtitutes part of a ſyſtem, or whole; in conſequence whereof he has neceſſary relations to other beings; and the actions of man viewed in this light, having always ſome relation to another perſon, the idea of duty, com- Duty may be taken in a looſe or ſtrict ſenſe.

monly ſpeaking, includes this relation. And yet, as it frequently happens in morality, that we give ſometimes a more extenſive, and at other times a more limited ſenſe to the ſame term, nothing hinders us from beſtowing the more ample ſignification on the word *duty*, by taking it in general for an action conformable to right reaſon. And then, it may be very well ſaid, that man, conſidered even alone, and as a ſeparate being, has particular duties to fulfill. It is ſufficient for this end, that there be ſome actions which reaſon approves, and others which it condemns. Theſe different ideas have nothing in them that is oppoſite; on the contrary, they are perfectly reconciled, and receive mutual ſtrength and aſſiſtance from each other.

Reſult of what has been hitherto ſaid.

XIII. The reſult of what we have been now ſaying, is as follows.

1. Reaſon being the firſt rule of man, it is alſo the firſt principle of morality, and the immediate cauſe of all primitive obligation.

2. Man being, by his nature and ſtate, in a neceſſary dependance on the Creator, who has formed him with deſign and wiſdom, and propoſed ſome particular views to himſelf in creating him; the will of God is another rule of human actions, another principle of morality, obligation, and duty.

3. We may therefore ſay, there are in general two ſorts of morality or obligation; one antecedent to the law, and the work of reaſon; the other ſubſequent to the law, and properly the effect thereof;

it is on this that the forementioned diſtinction of internal and external obligation is founded *.

4. True it is, that thoſe different ſpecies of obligation have not all the ſame force. That which ariſes from the law, is without doubt the moſt perfect; it lays the ſtrongeſt reſtriction on liberty, and merits therefore the name of obligation by way of preference. But we muſt not from thence infer that it is the only one, and that there can be none of any other kind. One obligation may be real, though it be different from, and even weaker than another.

5. It is ſo much the more neceſſary to admit theſe two ſorts of obligation and morality, as that which renders the obligation of law the moſt perfect, is its uniting the two ſpecies; being internal and external both at the ſame time †. For were there no attention given to the very nature of the laws, and were the things they command or prohibit, not to merit the approbation or cenſure of reaſon; the authority of the legiſlator would have no other foundation but that of power; and laws being then no more than the effect of an arbitrary will, they would produce rather a conſtraint, properly ſo called, than any real obligation.

Theſe remarks are eſpecially, and in the exacteſt manner, applicable to the laws of nature. The obligation theſe produce is of all others the moſt efficacious and extenſive; becauſe, on one ſide, the diſpoſition of theſe laws is in itſelf very reaſonable, being founded on the nature of the actions, their ſpecific differences, and the relation or oppoſition

* See part i. chap. vi. § 13. † See part i. chap. ix. § 12.

they have to particular ends. On the other ſide, the divine authority, which enjoins us to obſerve theſe rules as laws he preſcribes to us, adds a new force to the obligation they produce of themſelves, and lays us under an indiſpenſable neceſſity of conforming our actions to them.

7. From theſe remarks it follows, that thoſe two ways of eſtabliſhing morality, whereof one ſets up reaſon and the other the will of God for its principle, ought not to be placed in oppoſition, as two incompatible ſyſtems, neither of which can ſubſiſt without deſtroying or excluding the other. On the contrary, we ſhould join theſe two methods, and unite the two principles, in order to have a complete ſyſtem of morality, really founded on the nature and ſtate of man. For man, as a rational being, is ſubject to reaſon; and as a creature of God, to the will of the ſupreme Being. As theſe two qualities have nothing oppoſite or incompatible in their nature, conſequently theſe two rules, reaſon and the divine will, are perfectly reconciled; they are even naturally connected, and ſtrengthened by their junction. And indeed it could not be otherwiſe; for, in fine, God himſelf is the author of the nature and mutual relations of things; and particularly of the nature of man, of his conſtitution, ſtate, reaſon, and faculties: The whole is the work of God, and ultimately depends on his will and inſtitution.

This manner of eſtabliſhing morality does not weaken the ſyſtem of natural law.

XIV. This manner of eſtabliſhing the foundation of obligation and duty, is ſo far from weakening the ſyſtem of natural law or morality, that we may affirm, it rather gives it a greater ſolidity and force.

This

This is tracing the thing to the very ſource; it is laying the foundation of the edifice. I grant, that in order to reaſon well on morality, we ought to take things as they are, without making abſtractions; that is, we ſhould attend to the nature and actual ſtate of man, by uniting and combining all the circumſtances that eſſentially enter into the ſyſtem of humanity. But this does not hinder us from conſidering likewiſe the ſyſtem of man in its particulars, and as it were by parts, to the end, that an exact knowledge of each of thoſe parts may help us to underſtand better the whole. It is the only method we can take in order to attain this end.

Grotius's opinion examined.

XV. What has been hitherto ſet forth, may help to explain and juſtify at the ſame time a thought of Grotius in his preliminary diſcourſe, § 11. This author having eſtabliſhed, after his manner, the principles and foundation of natural law, on the conſtitution of human nature, adds, *that all he has been ſaying would in ſome meaſure take place, were we even to grant there was no God; or that he did not concern himſelf about human affairs.* It is obvious, by his very manner of expreſſing himſelf, that he does not intend to exclude the divine will from the ſyſtem of natural law. This would be miſtaking his meaning; becauſe he himſelf eſtabliſhes this will of the Creator as another ſource of right. All he means is, that independent of the intervention of God, conſidered as a legiſlator, the maxims of natural law having their foundation in the nature of things and in the human conſtitution; reaſon alone impoſes already on man a neceſſity of following thoſe maxims, and

lays him under an obligation of conforming his conduct to them. In fact, it cannot be denied but that the ideas of order, agreeableneſs, honeſty, and conformity to right reaſon, have at all times made an impreſſion on man, at leaſt to a certain degree, and among nations ſomewhat civilized. The human mind is formed in ſuch a manner, that even thoſe who do not comprehend theſe ideas in their full exactneſs and extent, have, nevertheleſs, a confuſed notion thereof, which inclines them to acquieſcence ſo ſoon as they are propoſed.

In order to have a perfect ſyſtem of morality, we ſhould join it with religion.

XVI. But while we acknowledge the reality and certainty of thoſe principles, we ought likewiſe to own, that if we proceed no farther, we are got but half way our journey; this would be unreaſonably attempting to eſtabliſh a ſyſtem of morality independent of religion. For were we even to grant, that ſuch a ſyſtem is not deſtitute of all foundation; yet it is certain it could never produce of itſelf ſo effectual an obligation, as when it is joined with the divine will. Since the authority of the ſupreme Being gives the force of laws, properly ſo called, to the maxims of reaſon, theſe maxims acquire thereby the higheſt degree of ſtrength they can poſſibly have, to bind and ſubject the will, and to lay us under the ſtricteſt obligation. But (once more we repeat it) to pretend therefore, that the maxims and counſels of reaſon conſidered in themſelves, and detached, as it were, from God's command, are not at all obligatory, is carrying the thing too far; it is concluding beyond our premiſes, and admitting only one ſpecies of obligation. Now this is not only

only unconformable to the nature of things, but, as we have already obſerved, it is weakening even the obligation reſulting from the will of the legiſlator. For the divine ordinances make a much ſtronger impreſſion on the mind, and are followed with a greater ſubjection in the will, in proportion as they are approved by reaſon, as being in themſelves perfectly agreeable to our nature, and extremely conformable to our conſtitution and ſtate.

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## CHAP. VIII.

### *Conſequences of the preceding chapter: reflections on the diſtinctions of juſt, honeſt, and uſeful.*

I. THE reflections contained in the foregoing chapter give us to underſtand, that there is a vaſt deal of ambiguity and miſtake in the different ſentiments of writers, in relation to morality or the foundation of natural laws. They do not always aſcend to the firſt principles, neither do they define and diſtinguiſh exactly; they ſuppoſe an oppoſition between ideas that are reconcileable, and ought even to be joined together. Some reaſon in too abſtract a manner on the human ſyſtem; and following only their own metaphyſical ſpeculations, never attend ſufficiently to the actual ſtate of things, and to the natural dependance of man. Others conſidering principally this dependance, reduce the whole to the will and orders of the ſovereign maſter, and ſeem thus to loſe ſight of the very nature and internal conſtitution

There is a great deal of ambiguity and miſtake concerning this ſubject.

ſtitution of man, from which it cannot however be ſeparated. Theſe different ideas are juſt in themſelves; yet we muſt not eſtabliſh the one, by excluding the other, or by explaining it to the other's prejudice. Reaſon, on the contrary, requires us to unite them, in order to find the true principles of the human ſyſtem, whoſe foundations muſt be ſought for in the nature and ſtate of man.

Of juſt, honeſt, uſeful, order, and fitneſs.

II. It is very common to uſe the words *utility*, *juſtice*, *honeſty*, *order*, and *fitneſs*; but theſe different notions are ſeldom defined in an exact manner, and ſome of them are frequently confounded. This want of exactneſs muſt neceſſarily create ambiguity and confuſion; wherefore, if we intend to make things clear, we muſt take care to define and diſtinguiſh properly.

An uſeful action may, methinks, be defined, that which of itſelf tends to the preſervation and perfection of man.

A juſt action, that which is conſidered as conformable to the will of a ſuperior who commands.

An action is called honeſt, when it is conſidered as conformable to the maxims of right reaſon, agreeable to the dignity of our nature, deſerving of the approbation of man, and conſequently procuring reſpect and honour to the perſon that does it.

By order, we can underſtand nothing elſe but the diſpoſition of ſeveral things, relative to a certain end, and proportioned to the effect we intend to produce.

Finally, as to fitneſs or agreeableneſs, it bears a very great affinity with order. It is a relation of conformity between ſeveral things, one of which is of itſelf proper for the preſervation and perfection of the other,

other, and contributes to maintain it in a good and advantageous ſtate.

Juſt, honeſt, and uſeful, are diſtinct things, and muſt not be confounded.

III. We muſt not therefore confound the words *juſt*, *uſeful*, and *honeſt*; for they are three diſtinct ideas. But though diſtinct from one another, they have no oppoſition; they are three relations, which may all agree, and be applied to one ſingle action, conſidered under different reſpects. And if we aſcend ſo high as the firſt origin, we ſhall find that they are all derived from one common ſource, or from one and the ſame principle, as three branches from the ſame ſtock. This general principle is the approbation of reaſon. Reaſon neceſſarily approves whatever conducts us to real happineſs: and as that which is agreeable to the preſervation and perfection of man; that which is conformable to the will of the ſovereign maſter on whom he depends; and that which procures him the eſteem and reſpect of his equals; as all this, I ſay, contributes to his happineſs, reaſon cannot but approve of each of theſe things ſeparately conſidered, much leſs can it help approving, under different reſpects, an action in which all theſe properties are found united.

But though they are diſtinct, yet they are naturally connected.

IV. For ſuch is the ſtate of things, that the ideas of juſt, honeſt, and uſeful, are naturally connected, and as it were inſeparable; at leaſt if we attend, as we ought to do, to real, general, and laſting utility. We may ſay, that ſuch an utility becomes a kind of characteriſtic to diſtinguiſh what is truly juſt, or honeſt, from what is ſo only in the erroneous opinions of men. This is a beautiful and judicious remark of Cicero.

Cicero. * *The language and opinions of men are very wide*, ſays he, *from truth and right reaſon, in ſeparating the honeſt from the uſeful, and in perſuading themſelves that ſome honeſt things are not uſeful, and other things are uſeful but not honeſt. This is a dangerous notion to human life.—Hence we ſee that Socrates deteſted thoſe ſophiſts, who firſt ſeparated thoſe two things in opinion, which in nature are really joined.*

In fact, the more we inveſtigate the plan of divine providence, the more we find the Deity has thought proper to connect the moral good and evil with the phyſical, or, which is the ſame thing, the juſt with the uſeful. And though in ſome particular caſes the thing ſeems otherwiſe, this is only an accidental diſorder, which is much leſs a natural conſequence of the ſyſtem, than an effect of the ignorance or malice of man. Whereto we muſt add, that in caſe we do not ſtop at the firſt appearances, but proceed to conſider the human ſyſtem in its full extent, we ſhall find, that every thing well conſidered, and all compenſations made, theſe irregularities will be one day or other redreſſed, as we ſhall more fully ſhew when we come to treat of the ſanctions of natural laws.

* In quo lapſa conſuetudo deflexit de via, ſenſimque eò deducta eſt, ut honeſtatem ab utilitate ſecernens, & conſtituerit honeſtum eſſe aliquod quod utile non eſſet, & utile quod non honeſtum: quâ nulla pernicies major hominum vitæ potuit adferri. *Cic. de Offic. lib.* 2. *cap.* 3. Itaque accepimus, Socratem exſecrari ſolitum eos, qui primum hæc naturâ cohærentia opinione diſtraxiſſent. *Idem, lib.* 3. *cap.* 13. See likewiſe Grotius, Rights of War and Peace, preliminary diſcourſe, § 17. and following; and Puffendorf, Law of Nature and Nations, book ii. chap. iii. § 10, 11.

V. Here

V. Here a queſtion is ſometimes propoſed; whether a thing be juſt, becauſe God commands it, or whether God commands it, becauſe it is juſt? Whether an action is juſt, becauſe God commands it.

Purſuant to our principles, the queſtion is not at all difficult. A thing is juſt, becauſe God commands it; this is implied by the definition we gave of juſtice. But God commands ſuch or ſuch things, becauſe theſe things are reaſonable in themſelves, conformable to the order and ends he propoſed to himſelf in creating mankind, and agreeable to the nature and ſtate of man. Theſe ideas, though diſtinct in themſelves, are neceſſarily connected, and can be ſeparated only by a metaphyſical abſtraction.

VI. Let us, in fine, obſerve that this harmony or ſurpriſing agreement, which naturally occurs between the ideas of juſt, honeſt, and uſeful, conſtitutes the whole beauty of virtue, and informs us at the ſame time in what the perfection of man conſiſts. In what the beauty of virtue and the perfection of man conſiſts.

In conſequence of the different ſyſtems above mentioned, moraliſts are divided with regard to the latter point. Some place the perfection of man in ſuch a uſe of his faculties as is agreeable to the nature of his being. Others in the uſe of our faculties and the intention of our Creator. Some, in fine, pretend that man is perfect, only as his manner of thinking and acting is proper to conduct him to the end he aims at, namely, his happineſs.

But what we have above ſaid ſufficiently ſhews, that theſe three methods of conſidering the perfection of man, are very little different, and ought not to be ſet in oppoſition. As they are interwoven with one

one another, we ought rather to combine and unite them. The perfection of man conſiſts really in the poſſeſſion of natural or acquired faculties, which enable us to obtain, and actually put us in poſſeſſion of ſolid felicity; and this in conformity to the intention of our Creator, engraved in our nature, and clearly manifeſted by the ſtate wherein he has placed us *.

A modern writer has judiciouſly ſaid; *that to obey only through fear of authority, or for the hope of recompence, without eſteeming or loving virtue for the ſake of its own excellency; is mean and mercenary. On the contrary, to practiſe virtue with an abſtract view of its fitneſs and natural beauty, without having any thought of the Creator and Conductor of the univerſe; is failing in our duty to the firſt and greateſt of Beings. He only who acts jointly through a principle of reaſon, through a motive of piety, and with a view of his principal intereſt, is an honeſt, wiſe, and pious man; which conſtitutes, without compariſon, the worthieſt and completeſt of characters.*

* Theory of agreeable ſenſations, chap. viii.

CHAP.

## CHAP. IX.

### *Of the application of natural laws to human actions; and firſt of conſcience* *.

I. AS ſoon as we have diſcovered the foundation and rule of our duties, we have only to recollect what has been already ſaid in the eleventh chapter of the firſt part of this work, concerning the morality of actions, to ſee in what manner natural laws are applied to human actions, and what effect ought from thence to reſult.

What is meant by applying the laws to human actions.

The application of the laws to human actions is nothing elſe, but the judgment we paſs on their morality, by comparing them with the law; a judgment whereby we pronounce that thoſe actions being either good, bad, or indifferent, we are obliged either to perform or omit them, or that we may uſe our liberty in this reſpect: and that according to the ſide we have taken, we are worthy of praiſe or blame, approbation or cenſure.

This is done in two different manners. For either we judge on this footing of our own actions, or of thoſe of another perſon. In the firſt caſe, our judgment is called conſcience: but the judgment we paſs on other men's actions, is termed imputation. Theſe are, undoubtedly, ſubjects of great importance, and of univerſal uſe in morality, which deſerve therefore to be treated with ſome care and circumſpection.

* See the Law of Nature and Nations, book i. chap. iii. § 4. and following: and the Duties of Man and a Citizen, book i. chap. i. § 5, 6.

What is conſcience.

II. Conſcience is properly no more than reaſon itſelf, conſidered as inſtructed in regard to the rule we ought to follow, or to the law of nature; and judging of the morality of our own actions, and of the obligations we are under in this reſpect, by comparing them to this rule, purſuant to the ideas we entertain thereof.

Conſcience is alſo very frequently taken for the very judgment we paſs on the morality of actions; a judgment which is the reſult of perfect reaſoning, or the conſequence we infer from two expreſs or tacit premiſſes. A perſon compares two propoſitions, one of which includes the law, and the other the action; and from thence he deduces a third, which is the judgment he makes of the quality of his action. Such was the reaſoning of Judas: *Whoſoever delivers up an innocent man to death, commits a crime*; here is the law. *Now this is what I have done*; here is the action. *I have therefore committed a crime*; this is the conſequence, or judgment which his conſcience paſſed on the action he committed.

Conſcience ſuppoſes a knowledge of the law.

III. Conſcience ſuppoſes therefore a knowledge of the law; and particularly of the law of nature, which being the primitive ſource of juſtice, is likewiſe the ſupreme rule of conduct. And as the laws cannot ſerve us for rules, but inaſmuch as they are known, it follows therefore, that conſcience becomes thus the immediate rule of our actions: for it is evident we cannot conform to the law, but ſo far as we have notice thereof.

IV. This

IV. This being premiſed, the *firſt rule* we have to lay down concerning this matter, is, that we muſt enlighten our conſcience, as well as conſult it, and follow its counſels. First rule.

We muſt enlighten our conſcience; that is, we muſt ſpare no care or pains to be exactly inſtructed with regard to the will of the legiſlator, and the diſpoſition of his laws, in order to acquire juſt ideas of whatever is commanded, forbidden, or permited. For plain it is, that were we in ignorance or error in this reſpect, the judgment we ſhould form of our actions would be neceſſarily vicious, and conſequently lead us aſtray. But this is not enough. We muſt join to this firſt knowledge, the knowledge alſo of the action. And for this purpoſe, it is not only neceſſary to examine this action in itſelf; but we ought likewiſe to be attentive to the particular circumſtances that accompany it, and the conſequences that from thence may follow. Otherwiſe we ſhould run a riſk of being miſtaken in the application of the laws, whoſe general deciſions admit of ſeveral modifications, according to the different circumſtances that accompany our actions; which neceſſarily influences their morality, and of courſe our duties. Thus it is not ſufficient for a judge to be well acquainted with the tenor and purport of the law, before he pronounces ſentence; he ſhould likewiſe have an axact knowledge of the fact and all its different circumſtances.

But it is not merely with a view of enlightening our reaſon, that we ought to acquire all this knowledge; it is principally in order to apply it occa-

ſionally to the direction of our conduct. We ſhould therefore, whenever it concerns us to act, conſult previouſly our conſcience, and be directed by its counſels. This is properly an indiſpenſable obligation. For, in fine, conſcience being, as it were, the miniſter and interpreter of the will of the legiſlator, the counſels it gives us, have all the force and authority of a law, and ought to produce the ſame effect upon us.

Second and third rules.

V. It is only therefore by enlightening our conſcience, that it becomes a ſure rule of conduct, whoſe dictates may be followed with a perfect confidence of exactly fulfilling our duty. For we ſhould be groſly miſtaken, if, under a notion that conſcience is the immediate rule of our actions, we were to believe that every man may lawfully do whatever he imagines the law commands or permits. We ought firſt to know whether this notion or perſuaſion is juſtly founded. For, as Puffendorf * obſerves, conſcience has no ſhare in the direction of human actions, but inaſmuch as it is inſtructed concerning the law, whoſe office it properly is to direct our actions. If we have therefore a mind to determine and act with ſafety, we muſt on every particular occaſion obſerve the two following rules, which are very ſimple of themſelves, eaſy to practice, and naturally follow our firſt rule, of which they are only a kind of elucidation †.

* See the Law of Nature and Nations, book i. chap. iii. § 4.

† See Barbeyrac's firſt note on the Duties of Man and a Citizen, book i. chap. i. § 5.

*Second*

*Second rule.* Before we determine to follow the dictates of conſcience, we ſhould examine thoroughly whether we have the neceſſary lights and helps to judge of the things before us. If we happen to want theſe lights and helps, we can neither decide, nor much leſs undertake any thing, without an inexcuſable and dangerous temerity. And yet nothing is commoner than to tranſgreſs againſt this rule. What multitudes, for example, determine on religious diſputes, or difficult queſtions concerning morality or politics, though they are no way capable of judging or reaſoning about them?

*Third rule.* Suppoſing that in general we have neceſſary lights and helps to judge of the affair before us, we muſt afterwards ſee whether we have actually made uſe of them; inſomuch, that without a new inquiry we may follow what our conſcience ſuggeſts. It happens every day that for want of attending to this rule, we let ourſelves be quietly prevailed upon to do a great many things, which we might eaſily diſcover to be unjuſt, had we given heed to certain clear principles, the juſtice and neceſſity of which is univerſally acknowledged.

When we have made uſe of the rules here laid down, we have done whatever we could and ought; and it is morally certain, that by thus proceeding we can be neither miſtaken in our judgment, nor wrong in our determinations. But if, notwithſtanding all theſe precautions, we ſhould happen to be miſtaken, which is not abſolutely impoſſible; this would be an infirmity, inſeparable from human nature, and would carry its excuſe along with it in the eye of the ſupreme legiſlator.

Antecedent and ſubſequent conſcience. Fourth rule.

VI. We judge of our actions either before, or after we have done them; wherefore there is an antecedent and a ſubſequent conſcience.

This diſtinction gives us an opportunity to lay down a *fourth rule*; which is, that a prudent man ought to conſult his conſcience before and after he has acted.

To determine to act, without having previouſly examined, whether what we are going to do be good or evil, manifeſtly indicates an indifference for our duty, which is a moſt dangerous ſtate in reſpect to man; a ſtate capable of throwing him into the moſt fatal exceſſes. But as, in this firſt judgment, we may happen to be determined by paſſion, and to proceed with precipitation, or upon a very ſlight examen; it is therefore neceſſary to reflect again on what we have done, either in order to be confirmed in the right ſide, if we have embraced it; or to correct our miſtake if poſſible, and to guard againſt the like faults for the future. This is ſo much the more important, as experience ſhews us, that we frequently judge quite differently between a paſt and future tranſaction; and that the prejudices or paſſions which may lead us aſtray, when we are to take our reſolution, oftentimes diſappear either in the whole or part, when the action is over; and leave us then more at liberty to judge rightly of the nature and conſequences of the action.

The habit of making this double examen, is the eſſential character of an honeſt man; and indeed nothing can be a better proof of our being ſeriouſly inclined to diſcharge our ſeveral duties.

VII. The

VII. The effect reſulting from this reviſal of our conduct, is very different, according as the judgment we paſs on it, abſolves or condemns us. In the firſt caſe, we find ourſelves in a ſtate of ſatisfaction and tranquillity, which is the ſureſt and ſweeteſt recompence of virtue. A pure and untainted pleaſure accompanies always thoſe actions that are approved by reaſon; and reflection renews the ſweets we have taſted, together with their remembrance. And indeed what greater happineſs is there than to be inwardly ſatisfied, and to be able with a juſt confidence to promiſe ourſelves the approbation and benevolence of the ſovereign Lord on whom we depend? If, on the contrary, conſcience condemns us, this condemnation muſt be accompanied with inquietude, trouble, reproaches, fear, and remorſe; a ſtate ſo diſmal, that the ancients have compared it to that of a man tormented by the furies. *Every crime*, ſays the ſatyriſt, *is diſapproved by the very perſon that commits it; and the firſt puniſhment the criminal feels, is, that he cannot avoid being ſelf-condemned, were he even to find means of being acquitted before the prætor's tribunal.*

Subſequent conſcience is either quiet, or uneaſy.

*Exemplo quodcunque malo committitur, ipſi*
*Diſplicet auctori: prima hæc eſt ultio, quod, ſe*
*Judice, nemo nocens abſolvitur, improba quamvis*
*Gratia fallaci prætoris vicerit urnâ.*

Juv. Sat. 13. ver. 1.

*He that commits a ſin, ſhall quickly find*
*The preſſing guilt lie heavy on his mind;*
*Though bribes or favour ſhall aſſert his cauſe,*
*Pronounce him guiltleſs, and elude the laws:*

*None quits himſelf; his own impartial thought*
*Will damn, and conſcience will record the fault.*

Creech.

Hence the ſubſequent conſcience is ſaid to be quiet or uneaſy, good or bad.

Deciſive and dubious conſcience, Fifth, ſixth, and ſeventh rule.

VIII. The judgment we paſs on the morality of our actions is likewiſe ſuſceptible of ſeveral different modifications that produce new diſtinctions of conſcience, which we ſhould here point out. Theſe diſtinctions may, in general, be equally applied to the two firſt ſpecies of conſcience above mentioned; but they ſeem more frequently and particularly to agree with the antecedent conſcience.

Conſcience is therefore either deciſive or dubious, according to the degree of perſuaſion a perſon may have concerning the quality of the action.

When we pronounce deciſively, and without any heſitation, that an action is conformable or oppoſite to the law, or that it is permitted, and conſequently we ought to do or omit it, or elſe that we are at liberty in this reſpect; this is called a deciſive conſcience. If, on the contrary, the mind remains in ſuſpenſe, through the conflict of reaſons we ſee on both ſides, and which appear to us of equal weight, inſomuch that we cannot tell to which ſide we ought to incline; this is called a dubious conſcience. Such was the doubt of the Corinthians, who did not know whether they could eat things ſacrificed to idols, or whether they ought to abſtain from them. On the one ſide, the evangelical liberty ſeemed to permit it; on the other, they were reſtrained through apprehenſion of ſeeming to give thereby a kind of conſent to idolatrous acts.

Not knowing what reſolution to take, they wrote to St. Paul to remove their doubt.

This diſtinction makes room alſo for ſome rules.

*Fifth Rule.* We do not intirely diſcharge our duty, by doing with a kind of difficulty and reluctance, what the deciſive conſcience ordains; we ought to ſet about it readily, willingly, and with pleaſure *. On the contrary, to determine without heſitation or repugnance, againſt the motions of ſuch a conſcience, is ſhewing the higheſt degree of depravation and malice, and renders a perſon incomparably more criminal than if he were impelled by a violent paſſion or temptation †.

*Sixth Rule.* With regard to a dubious conſcience, we ought to uſe all endeavours to get rid of our uncertainty, and to forbear acting, ſo long as we do not know whether we do good or evil. To behave otherwiſe, would indicate an indirect contempt of the law, by expoſing one's ſelf voluntarily to the hazard of violating it, which is a very bad conduct. The rule now mentioned ought to be attended to, eſpecially in matters of great importance.

*Seventh Rule.* But if we find ourſelves in ſuch circumſtances as neceſſarily oblige us to determine to act, we muſt then, by a new attention, endeavour to diſtinguiſh the ſafeſt and moſt probable ſide, and whoſe conſequences are leaſt dangerous. Such is generally the oppoſite ſide to paſſion; it being the

* See part ii. chap. v. § 7.

† See Grotius, Rights of War and Peace, book ii. chap. xx. § 19.

ſafeſt

ſafeſt way, not to liſten too much to our inclinations. In like manner, we run very little riſk of being miſtaken in a dubious caſe, by following rather the dictates of charity than the ſuggeſtion of ſelf-love.

Scrupulous conſcience. Eighth rule.

IX. Beſides the dubious conſcience, properly ſo called, and which we may likewiſe diſtinguiſh by the name of irreſolute, there is a ſcrupulous conſcience, produced by ſlight and frivolous difficulties that ariſe in the mind, without ſeeing any ſolid reaſon for doubting.

*Eighth Rule.* Such ſcruples as theſe ought not to hinder us from acting, if it be neceſſary; and as they generally ariſe either from a falſe delicacy of conſcience, or from groſs ſuperſtition, we ſhould ſoon get rid of them, were we to examine the thing with attention.

Right and erroneous conſcience. Ninth rule.

X. Let us afterwards obſerve, that the deciſive conſcience, according as it determines good or evil, is either right or erroneous.

Thoſe, for example, who imagine we ought to abſtain from ſtrict revenge, though the law of nature permits a legitimate defence, have a right conſcience. On the other hand, thoſe who think that the law which requires us to be faithful to our engagements, is not obligatory towards heretics, and that we may lawfully break through it in reſpect to them, have an erroneous conſcience.

But what muſt we do in caſe of an erroneous conſcience?

*Ninth Rule.* I anſwer, that we ought always to follow the dictates of conſcience, even when it is

erroneous, and whether the error be vincible or invincible.

This rule may appear ſtrange at firſt ſight, ſince it ſeems to preſcribe evil; becauſe there is no manner of queſtion, but that a man who acts according to an erroneous conſcience, eſpouſes a bad cauſe. Yet this is not ſo bad, as if we were to determine to do a thing, with a firm perſuaſion of its being contrary to the deciſion of the law; for this would denote a direct contempt of the legiſlator and his orders, which is a moſt criminal diſpoſition. Whereas the firſt reſolution, though bad in itſelf, is nevertheleſs the effect of a laudable diſpoſition to obey the legiſlator, and conform to his will.

But it does not from thence follow, that we are always excuſable in being guided by the dictates of an erroneous conſcience; this is true only when the error happens to be invincible. If on the contrary it is ſurmountable, and we are miſtaken in reſpect to what is commanded or forbidden, we ſin either way, whether we act according to, or againſt the deciſions of conſcience. This ſhews (to mention it once more) what an important concern it is to enlighten our conſcience, becauſe, in the caſe juſt now mentioned, the perſon with an erroneous conſcience is actually under a melancholy neceſſity of doing ill, whichever ſide he takes. But if we ſhould happen to be miſtaken with regard to an indifferent thing, which we are erroneouſly perſuaded is commanded or forbidden, we do not ſin in that caſe, but when we act contrary to the light of our own conſcience.

Demonſtrative and probable conſcience. Tenth rule.

XI. In fine, there are two ſorts of right conſcience; the one clear and demonſtrative, and the other merely probable.

The clear and demonſtrative conſcience is that which is founded on certain principles, and on demonſtrative reaſons, ſo far as the nature of moral things will permit; inſomuch that one may clearly and diſtinctly prove the rectitude of a judgment made on ſuch or ſuch an action. On the contrary, though we are convinced of the truth of a judgment, yet if it be founded only on veriſimilitude, and we cannot demonſtrate its certainty in a methodical manner, and by inconteſtible principles, it is then only a probable conſcience.

The foundations of probable conſcience are in general authority and example, ſupported by a confuſed notion of a natural fitneſs, and ſometimes by popular reaſons, which ſeem drawn from the very nature of things. It is by this kind of conſcience that the greateſt part of mankind are conducted, there being very few who are capable of knowing the indiſpenſable neceſſity of their duties, by deducing them from their firſt ſources by regular conſequences; eſpecially when the point relates to maxims of morality, which being ſomewhat remote from the firſt principles, require a longer chain of reaſonings. This conduct is far from being unreaſonable. For thoſe who have not ſufficient light of themſelves to judge properly of the nature of things, cannot do better than recur to the judgment of enlightened perſons; this being the only reſource left them to act with ſafety. We might in this reſpect compare

compare the perſons above mentioned to young people, whoſe judgment has not yet acquired its full maturity, and who ought to liſten and conform to the counſels of their ſuperiors. The authority therefore, and example of ſage and enlightened men, may in ſome caſes, in default of our own lights, prove a reaſonable principle of determination and conduct.

But, in fine, ſince thoſe foundations of probable conſcience are not ſo ſolid as to permit us abſolutely to build upon them, we muſt therefore eſtabliſh, as a *Tenth Rule*, that we ought to uſe all our endeavours to increaſe the degree of veriſimilitude in our opinions, in order to approach as near as poſſible to the clear and demonſtrative conſcience; and we muſt not be ſatisfied with probability, but when we can do no better.

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## CHAP. X.

### *Of the merit and demerit of human actions; and of their imputation relative to the laws of nature*.*

I. IN explaining the nature of human actions, conſidered with regard to right †, we obſerved, that an eſſential quality of theſe actions is to be ſuſceptible of imputation; that is, the agent may be reaſonably looked upon as the real author thereof,

Diſtinction of imputability and imputation. Of the nature of a moral cauſe.

* See on this, and the following chapter, Puffendorf's Law of Nature and Nations, book i. chap. v. and chap. ix.

† Part i. chap. iii.

may

may have it charged to his account, and be made anſwerable for it; inſomuch that the good or bad effects from thence ariſing, may be juſtly attributed and referred to him, as to the efficient cauſe, concerning which we have laid down this principle, that every voluntary action is of an imputable nature.

We give in general the name of moral cauſe of an action to the perſon that produced it, either in the whole or part, by a determination of his will; whether he executes it himſelf phyſically and immediately, ſo as to be the author thereof; or whether he procures it by the act of ſome other perſon, and becomes thereby its cauſe. Thus whether we wound a man with our own hands, or ſet aſſaſſins to way-lay him, we are equally the moral cauſe of the evil from thence reſulting.

It was obſerved likewiſe, that we muſt not confound the imputability of human actions with their actual imputation. The former, as has been juſt now mentioned, is a quality of the action; the latter is an act of the legiſlator, or judge, who lays to a perſon's charge an action that is of an imputable nature.

Of the nature of imputation. It ſuppoſes a knowledge of the law, as well as of the fact.

II. Imputation is properly therefore a judgment by which we declare, that a perſon being the author or moral cauſe of an action commanded or forbidden by the laws, the good or bad effects that reſult from this action, ought to be actually attributed to him; that he is conſequently anſwerable for them, and as ſuch is worthy of praiſe or blame, of recompence or puniſhment.

This

This judgment of imputation, as well as that of conſcience, is made by applying the law to the action, and comparing one with the other, in order to decide afterwards the merit of the fact, and to make the author conſequently feel the good or evil, the puniſhment or recompence which the law has thereto annexed. All this neceſſarily ſuppoſes an exact knowledge of the law and of its right ſenſe, as well as of the fact and ſuch circumſtances thereof, as may any way relate to the determination of the law. A want of this knowledge muſt render the application falſe, and the judgment erroneous.

III. Let us produce a few examples. One of the *Horatii*, who remained conqueror in the combat between the brothers of this name, and the three *Curiatii*, inflamed with anger againſt his ſiſter for bewailing the death of one of the Curiatii her lover, and for bitterly reproaching him therewith, inſtead of congratulating him for his victory, ſlew her with his own hand. He was accuſed before the *Duumvirs*; and the queſtion was, whether the law againſt murderers ought to be applied to the preſent caſe, in order to make him undergo the puniſhment? This was the opinion of the judges, who in fact condemned the young Roman. But an appeal being made to the people, they judged quite otherwiſe. Their notion was, that the law ought not to be applied to the fact; becauſe a Roman lady, who ſeemed to be more concerned about her own particular intereſt, than ſenſible of the good of her country, might in ſome meaſure be conſidered and treated as an enemy; wherefore they pronounced the young man Examples.

man innocent. Let us add another example of an advantageous imputation, or of a judgment of recompence. Cicero, in the beginning of his conſulate, diſcovered the conſpiracy of Catiline, which menaced the republic with ruin. In this delicate conjuncture he behaved with ſo much prudence and addreſs, that the conſpiracy was ſtifled without any noiſe or ſedition, by the death of a few of the criminals. And yet J. Cæſar, and ſome other enemies of Cicero, accuſed him before the people, for having put citizens to death contrary to rule, and before the ſenate or people had paſſed judgment againſt them. But the people attending to the circumſtances of the fact, to the danger the republic had eſcaped, and to the important ſervice Cicero had done, ſo far from condemning him as an infringer of the laws, decreed him the glorious title of *father of his country*.

Principles. 1. We ought not to infer actual imputation from imputability only.

† IV. In order to ſettle the principles and foundations of this matter, we muſt obſerve, 1. That we ought not to conclude the actual imputation of an action merely from its imputability. An action, to merit actual imputation, muſt neceſſarily have the concurrence of theſe two conditions: firſt, that it be of an imputable nature, and ſecondly, that the agent be under ſome obligation of doing or omitting it. An example will clear up the thing. Let us ſuppoſe two young men with the ſame abilities and conveniencies, but under no obligation of knowing algebra: one of them applies himſelf to this ſcience, and the other does not; though the action of the one and the other's omiſſion, are by themſelves of an imputable

putable nature; yet in this caſe they can be neither good nor bad. But were we to ſuppoſe that theſe two young men are deſigned by their prince, the one for ſome office of ſtate, and the other for a military employment; in this caſe, their application or neglect in inſtructing themſelves in juriſprudence, for example, or in the mathematics, would be juſtly imputed to them. The reaſon is, they are both indiſpenſibly obliged to acquire ſuch knowledge as is neceſſary for diſcharging properly the offices or employments to which they are called. Hence it is evident, that as imputability ſuppoſeth the power of acting or not acting; actual imputation requires, moreover, that a perſon be under an obligation of doing either one or the other.

V. 2. When we impute an action to a perſon, we render him, as has been already obſerved, anſwerable for the good or bad conſequences of what he has done. From thence it follows, that in order to make a juſt imputation, there muſt be ſome neceſſary or accidental connection between the thing done or omitted, and the good or bad conſequences of the action or omiſſion; and beſides, the agent muſt have had ſome knowledge of this connection, or at leaſt he muſt have been able to have a probable foreſight of the effects of his action. Otherwiſe the imputation cannot take place, as will appear by a few examples. A gunſmith ſells arms to a man who has the appearance of a ſenſible, ſedate perſon, and does not ſeem to have any bad deſign. And yet this man goes inſtantly to make an unjuſt attack on another perſon, and kills him. Here the

2. Imputation ſuppoſes ſome connection between the action and its conſequences.

gunſmith is not at all chargeable, having done nothing but what he had a right to do; and beſides, he neither could nor ought to have foreſeen what happened. But if a perſon careleſly leaves a pair of piſtols charged on a table, in a place expoſed to every body, and a child inſenſible of the danger happens to wound or kill himſelf; the former is certainly anſwerable for the misfortune: by reaſon this was a clear and immediate conſequence of what he has done, and he could and ought to have foreſeen it.

We muſt reaſon in the ſame manner with reſpect to an action productive of ſome good. This good cannot be attributed to a perſon, that has been the cauſe of it without knowledge or thought thereof. But in order to merit thanks and acknowledgment, there is no neceſſity of our being intirely ſure of ſucceſs; it is ſufficient there was room to reaſonably preſume it, and were the effect abſolutely to fail, the intention would not be the leſs commendable.

3. Foundations of merit and demerit.

VI. 3. But in order to aſcend to the firſt principles of this theory, we muſt obſerve, that as man is ſuppoſed to be obliged by his nature and ſtate to follow certain rules of conduct; the obſervance of thoſe rules conſtitutes the perfection of his nature and ſtate; and, on the contrary, the infringing of them forms the degradation of both. Now we are made after ſuch a manner, that perfection and order pleaſe us of themſelves; while imperfection and diſorder, and whatever relates thereto, naturally diſpleaſe us. Conſequently, we acknowledge that thoſe who, anſwering the end they were deſigned for,

for, perform their duty, and contribute thus to the good and perfection of the human ſyſtem, are deſerving of our approbation, eſteem, and benevolence; that they may reaſonably expect theſe ſentiments in their favour, and have ſome ſort of a right to the advantageous effects which naturally ariſe from thence. We cannot, on the contrary, avoid condemning thoſe, who, through a bad uſe of their faculties, degrade their own ſtate and nature; we confeſs they are worthy of diſapprobation and blame, and that it is agreeable to reaſon, the bad effects of their conduct ſhould fall upon themſelves. Such are the foundations of merit and demerit.

In what merit and demerit conſiſts.

VII. Merit therefore is a quality which intitles us to the approbation, eſteem, and benevolence of our ſuperiors or equals, and to the advantages from thence reſulting. Demerit is an oppoſite quality, which rendering us worthy of the cenſure and blame of thoſe with whom we converſe, obliges us, as it were, to acknowledge that it is reaſonable they ſhould entertain thoſe ſentiments towards us; and that we are under a melancholy obligation of bearing the bad effects that flow from thence.

Theſe notions of merit and demerit, have therefore, it is plain, their foundation in the very nature of things, and are perfectly agreeable to common ſenſe and the notions generally received. Praiſe and blame, where people judge reaſonably, always follow the quality of actions, according as they are morally good or bad. This is clear with reſpect to the legiſlator: He muſt contradict himſelf in the groſſeſt manner, were he not to approve what is conform-

able, and to condemn what is oppoſite to his laws. And as for thoſe that depend on him, this very dependance obliges them to regulate their judgment on this ſubject.

4. Merit and demerit have their degrees; and ſo has imputation.

VIII. 4. We have already * obſerved, that ſome actions are better than others, and that bad ones may likewiſe be more or leſs ſo, according to the different circumſtances that attend them, and the diſpoſition of the perſon that does them. Merit and demerit have therefore their degrees; they may be greater or leſſer. Wherefore when we are to determine exactly how far an action ought to be imputed to a perſon, we ſhould have regard to theſe differences; and the praiſe or blame, the recompence or puniſhment, ought likewiſe to have their degrees in proportion to the merit or demerit. Thus, according as the good or evil proceeding from an action is more or leſs conſiderable; according as there was more or leſs facility or difficulty to perform or to abſtain from this action; according as it was done with more or leſs reflection and liberty; and finally, according as the reaſons that ought to have determined us thereto, or diverted us from it, were more or leſs ſtrong, and the intention and motives were more or leſs noble and generous; the imputation is made after a more or leſs efficacious manner, and its effects are more or leſs profitable or pernicious.

5. Imputation is either ſimple or efficacious.

† IX. 5. Imputation, as we have already hinted, may be made by different perſons; and it is eaſy to

* Part i. chap. xi. § 12.

com-

comprehend, that in thoſe different caſes, the effects thereof are not always the ſame; but that they muſt be more or leſs important, according to the quality of the perſons, and the different right they have in this reſpect. Sometimes imputation is confined ſimply to praiſe or blame; and at other times it goes further. This gives us room to diſtinguiſh two ſorts of imputation, one ſimple, and the other efficacious. The firſt conſiſts only in approving or diſapproving the action; inſomuch that no other effect ariſes from thence with regard to the agent. But the ſecond is not confined to blame or praiſe; it produces moreover ſome good or bad effect with regard to the agent; that is, ſome real and poſitive good or evil that befalls him.

X. 6. Simple imputation may be made indifferently by every one, whether they have or have not a particular and perſonal intereſt in the doing or omitting of the action: it is ſufficient they have a general and indirect intereſt. And as we may affirm that all the members of ſociety are intereſted in the due obſervance of the laws of nature, hence they have all a right to praiſe or condemn another man's actions according as they are conformable or contrary to thoſe laws. They have even a kind of obligation in this reſpect. The regard they owe to the legiſlator and his laws, requires it of them; and they would be wanting in their duty to ſociety and to individuals, were they not to teſtify, at leaſt by their approbation or cenſure, the eſteem they have for probity and virtue, and their averſion, on the contrary, to iniquity and vice. 6. Effects of one and the other.

But with regard to efficacious imputation, in order to render it lawful, we ſhould have a particular and direct intereſt in the performing or omitting of the action. Now thoſe who have ſuch an intereſt, are, firſtly, perſons whom it concerns to regulate the actions; ſecondly, ſuch as are the object thereof, namely, thoſe towards whom we act, and to whoſe advantage or prejudice the thing may turn. Thus a ſovereign who has enacted laws, who commands certain things with a promiſe of recompence, and prohibits others under a commination of puniſhment, ought without doubt to concern himſelf about the obſervance of his laws, and has conſequently a right to impute the actions of his ſubjects after an efficacious manner, that is, to reward or puniſh them. The ſame may be ſaid of a perſon who has received ſome injury or damage by another man's action: this very thing gives him a right to impute the action efficaciouſly to its author, in order to obtain a juſt ſatisfaction, and a reaſonable indemnification.

7. If all thoſe who are concerned, do not impute an action, it is ſuppoſed not to have been done.

XI. 7. It may therefore happen, that ſeveral perſons have a right to impute each on his ſide, the ſame action to the perſon that did it; becauſe this action may intereſt them in different reſpects. And in that caſe, if any of the perſons concerned has a mind to relinquiſh his right, by not imputing the action to the agent ſo far as it concerns himſelf; this does not in any ſhape prejudice the right of the reſt, which is no way in his power. When a man does me an injury, I may indeed forgive him, as to what concerns myſelf; but this does not diminiſh the

the right the ſovereign may have to take cognizance of the injury, and to puniſh the author, as an infringer of the law, and a diſturber of the civil order and government. But if thoſe who are intereſted in the action, are willing not to impute it, and all jointly forgive the injury and the crime; in this caſe the action ought to be morally eſteemed as never committed, becauſe it is not attended with any moral effect.

XII. 8. Let us, in fine, obſerve, that there is ſome difference between the imputation of good and bad actions. When the legiſlator has eſtabliſhed a certain recompence for a good action, he obliges himſelf to give this recompence, and he grants a right of demanding it to thoſe who have rendered themſelves worthy thereof by their ſubmiſſion and obedience. But with reſpect to penalties enacted againſt bad actions, the legiſlator may actually inflict them, if he has a mind, and has an inconteſtible right to do it; inſomuch that the criminal cannot reaſonably complain of the evil he is made to undergo, becauſe he has drawn it upon himſelf through his diſobedience. But it does not from thence enſue, that the ſovereign is obliged to puniſh to the full rigour; he is always maſter to exerciſe his right, or to ſhew grace; to intirely remit, or to diminiſh the puniſhment; and he may have very good reaſons for doing either.

8. Difference between the imputation of good and bad actions.

## CHAP. XI.

*Application of thoſe principles to different ſpecies of actions, in order to judge in what manner they ought to be imputed.*

What actions are actually imputed?

I. WE might be ſatisfied with the general principles above laid down, were it not uſeful to make an application of them, and to point out particularly thoſe actions or events for which we are, or are not anſwerable.

1. And in the firſt place it follows, from what has been hitherto ſaid, that we may impute to a perſon every action or omiſſion, of which he is the author or cauſe, and which he could or ought to have done or omitted.

Actions of ſuch as have not the uſe of reaſon.

2. The actions of thoſe who have not the uſe of reaſon, ſuch as infants, fools, and madmen, ought not to be imputed to them. The want of knowledge hinders, in ſuch caſes, imputation. For theſe perſons being incapable of knowing what they are doing, or of comparing it with the laws; their actions are not properly human actions, nor do they include any morality. If we ſcold or beat a child, it is not by way of puniſhment; it is only a ſimple correction, by which we propoſe principally to hinder him from contracting a bad habit.

Of what's done in drunkenneſs.

3. With regard to what is done in drunkenneſs, this ſtate voluntarily contracted does not hinder the imputation of a bad action.

II. 4. We do not impute things that are really above a perſon's ſtrength; no more than the omiſſion of a thing commanded, if there has been no opportunity of doing it. For the imputation of an omiſſion manifeſtly ſuppoſes theſe two things; firſt, that a perſon has had ſufficient ſtrength and means to act; and ſecondly, that he could have made uſe of thoſe means, without any prejudice to ſome other more indeſpenſible duty, or without drawing upon himſelf a conſiderable evil, to which there was no obligation of being expoſed. It muſt be underſtood however, that the perſon has not brought himſelf into an incapacity of acting through his own fault; for then the legiſlator might as lawfully puniſh thoſe who have reduced themſelves to this incapacity, as if they had refuſed to act when they were capable of complying. Such was at Rome the caſe of thoſe who cut off their thumbs, in order to diſable themſelves from handling arms, and to be exempted from the ſervice. In like manner a debtor is not excuſable, when, through his own miſconduct, he has rendered himſelf unable to diſcharge his debts. And we even become deſervedly reſponſible for a thing in itſelf impoſſible, if we have undertaken to do it, when we knew, or might eaſily have known, that it ſurpaſſed our ſtrength; in caſe any body happens by this means to be injured.

Of things that are impoſſible.
Of the want of opportunity.

III. 5. The natural qualities of body or mind cannot of themſelves be imputed, either as good or evil. But a perſon is deſerving of praiſe, when by his application and care theſe qualities are perfected, or theſe defects are mended; and, on the contrary, one

Of natural qualities.

one is juſtly accountable for the imperfections and infirmities that ariſe from bad conduct or neglect.

Of events produced by external cauſes.

6. The effects of external cauſes and events, of what kind ſoever, cannot be attributed to a perſon, either as good or evil, but inaſmuch as he could and ought to procure, hinder, or direct them, and as he has been either careful or negligent in this reſpect. Thus we charge a good or bad harveſt to a huſbandman's account, according as he has tilled well or ill the ground, whoſe culture was committed to his care.

Of what is done through ignorance or error.

IV. 7. As for things done through error or ignorance, we may affirm in general, that a perſon is not anſwerable for what he has done through invincible ignorance, eſpecially as it is involuntary in its origin and cauſe. If a prince travels through his own dominions diſguiſed and *incognito*, his ſubjects are not to blame for not paying him the reſpect and honour due to him. But we ſhould reaſonably impute an unjuſt ſentence to a judge, who neglecting to inſtruct himſelf either in the fact or the law, ſhould happen to want the knowledge neceſſary to decide with equity. But the poſſibility of getting inſtruction, and the care we ought to take for this purpoſe, are not ſtrictly conſidered in the common run of life; we only look upon what is poſſible or impoſſible in a moral ſenſe, and with a due regard to the actual ſtate of humanity.

Ignorance or error, in point of laws and duties, generally paſſes for voluntary, and does not obſtruct the imputation of actions or omiſſions from thence

ariſing. This is a conſequence of the principles* already eſtabliſhed. But there may happen ſome particular caſes, wherein the nature of the thing, which of itſelf is difficult to inveſtigate, joined to the character and ſtate of the perſon, whoſe faculties being naturally limited, have likewiſe been uncultivated for want of education and aſſiſtance, renders the error unſurmountable, and conſequently worthy of excuſe. It concerns the prudence of the legiſlator to weigh theſe circumſtances, and to modify the imputation on this footing.

Of the effect of temperament, habits, or paſſions.

V. 8. Though temperament, habits, and paſſions, have of themſelves a great force to determine ſome actions; yet this force is not ſuch as abſolutely hinders the uſe of reaſon and liberty, at leaſt in reſpect to the execution of the bad deſigns they inſpire. That is what all legiſlators ſuppoſe; and a very good reaſon they have to ſuppoſe it †. Natural diſpoſitions, habits, and paſſions, do not determine men invincibly to violate the laws of nature. Theſe diſorders of the ſoul are not incurable; with ſome pains and aſſiduity one may contrive to remove them, according to Cicero's obſervation, who alledges to this purpoſe the example of Socrates ‡.

But if inſtead of endeavouring to correct theſe vicious diſpoſitions, we ſtrengthen them by habit, this does not render us inexcuſable. The power of habit is, indeed, very great; it even ſeems to im-

* See part i. chap. i. § 12.

† See part i. chap. ii. § 16.

‡ Tuſcul. quæſt. lib. 4. cap. 37.

pel

pel us by a kind of neceſſity. And yet experience ſhews it is not impoſſible to maſter it, when we are ſeriouſly reſolved to make the attempt. And were it even true that inveterate habits had a greater command over us than reaſon; yet as it was in our power not to contract them, they do not at all diminiſh the immorality of bad actions, and conſequently they cannot hinder them from being imputed. On the contrary, as a virtuous habit renders actions more commendable; ſo the habit of vice cannot but augment its blame and demerit. In ſhort, if inclinations, paſſions, or habits, could fruſtrate the effect of laws, it would be needleſs to trouble our heads about any direction of human actions; for the principal object of laws in general is to correct bad inclinations, to prevent vicious habits, to hinder their effects, and to eradicate the paſſions; or at leaſt to contain them within their proper limits.

Of forced actions.

VI. 9. The different caſes hitherto expoſed, contain nothing very difficult or puzzling. There are ſome others a little more embarraſſing, which require a particular diſcuſſion.

The firſt queſtion is, what we are to think of forced actions; whether they are of an imputable nature, and ought actually to be imputed?

I anſwer, 1. That a phyſical violence, and ſuch as abſolutely cannot be reſiſted, produces an involuntary action, which ſo far from meriting to be actually imputed, is not even of an imputable nature*. In this caſe, the author of the violence is the true and

* See § 1.

only

only cauſe of the action, and as ſuch is the only perſon anſwerable for it; whilſt the immediate agent being merely paſſive, the fact can be no more attributed to him than to the ſword, to the ſtick, or to any other weapon with which the blow or wound was given.

2. But if the conſtraint ariſes from the apprehenſion or fear of ſome great evil, with which we are menaced by a perſon more powerful than ourſelves, and who is able inſtantly to inflict it; it muſt be allowed, that the action done in conſequence of this fear, does not ceaſe to be voluntary, and therefore, generally ſpeaking, it is of an imputable nature*.

In order to know afterwards whether it ought actually to be imputed, it is neceſſary to inquire, whether the perſon on whom the conſtraint is laid, is under a rigorous obligation of doing or abſtaining from a thing, at the hazard of ſuffering the evil with which he is menaced. If ſo, and he determines contrary to his duty, the conſtraint is not a ſufficient reaſon to ſcreen him abſolutely from imputation. For generally ſpeaking, it cannot be queſtioned but a lawful ſuperior can lay us under an indiſpenſible obligation of obeying his orders, at the hazard of bodily pain, and even at the riſk of our lives.

VII. Purſuant to theſe principles, we muſt diſtinguiſh between indifferent actions, and thoſe that are morally neceſſary. An action indifferent in its nature, extorted by main force, cannot be imputed to

Forced actions are in themſelves either good, bad, or indifferent.

* See part i. chap. ii. § 12.

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the perſon conſtrained; becauſe, not being under any obligation in this reſpect, the author of the violence has no right to require any thing of him. And as the law of nature expreſly forbids all manner of violence, it cannot authoriſe it at the ſame time, by laying the perſon that ſuffers the violence, under a neceſſity of executing a thing to which he has given only a forced conſent. Thus every forced promiſe or convention is null of itſelf, and has nothing in it obligatory as a promiſe or convention; on the contrary, it may and ought to be imputed as a crime to the author of the violence. But were we to ſuppoſe that the perſon who uſes the conſtraint, exerciſes in this reſpect his own right, and purſues the execution thereof; the action, though forced, is ſtill valid, and attended with all its moral effects. Thus a debtor, who void of any principle of honeſty, ſatisfies his creditor only through imminent fear of impriſonment, or of execution on his goods, cannot complain againſt this payment, as made by conſtraint and violence. For being under an obligation of paying his juſt debts, he ought to have done it willingly and of his own accord, inſtead of being obliged to it by force.

As for good actions, to which a perſon is determined by force, and, as it were, through fear of blows or puniſhment, they paſs for nothing, and merit neither praiſe nor recompence. The reaſon hereof is obvious. The obedience required by the law ought to be ſincere; and we ſhould diſcharge our duties through a conſcientious principle, voluntarily, and with our own conſent and free will.

Finally,

Finally, with regard to actions manifeſtly bad or criminal, to which a perſon is forced through fear of ſome great evil, and eſpecially death; we muſt lay down as a general rule, that the unhappy circumſtances under which a perſon labours, may indeed diminiſh the crime of a man unequal to this trial, who commits a bad action in ſpite of himſelf, and againſt his own inward conviction; yet the action remains intrinſically vicious, and worthy of cenſure; wherefore it may be, and actually is imputed, unleſs the exception of neceſſity can be alledged in the perſon's favour.

Why a bad action, though forced, may be imputed.

VIII. This laſt rule is a conſequence of the principles hitherto eſtabliſhed. A man who determines through fear of ſome great evil, but without ſuffering any phyſical violence, to do a thing viſibly criminal, concurs in ſome manner to the action, and acts voluntarily, though with regret. It does not abſolutely ſurpaſs the fortitude of the human mind to reſolve to ſuffer, nay to die, rather than be wanting in our duty. We ſee a great many people who have a courage of this kind for very frivolous ſubjects, which make a lively impreſſion on them; and though the thing be really difficult, yet it is not impoſſible. The legiſlator may therefore impoſe a rigorous obligation of obeying, and have juſt reaſons for ſo doing. The intereſt of ſociety frequently requires examples of undaunted conſtancy. It was never a queſtion among civilized nations, and thoſe that had imbibed any principles of morality, whether, for example, it was lawful to betray one's country for the preſervation of life? and it is well known

that

that the oppoſite maxim was a received principle among the Greeks and Romans. Several heathen moraliſts have ſtrongly inculcated this doctrine, namely, that the dread of pains and torments ought not to prevail upon any man to make him do things contrary to religion or juſtice. *If you are ſummoned as a witneſs,* ſays a Latin poet, *in a dubious and equivocal affair, tell the truth, and do not be afraid; tell it, were even Phalaris to menace you with his bull unleſs you bore falſe witneſs. Fix it as a maxim in your mind, that it is the greateſt of evils to preſer life to honour; and never attempt to preſerve it at the expence of the only thing that can render it deſirable.*

——— *Ambiguæ ſi quando citabere teſtis*
*Incertæque rei; Phalaris licet imperet, ut ſis*
*Falſus, & admoto dictet perjuria tauro,*
*Summum crede nefas animam præferre pudori,*
*Et propter vitam vivendi perdere cauſas.*

JUVEN. ſat. viii. ver. 80.

*And if a witneſs in a doubtful cauſe,*
*Where a brib'd judge means to elude the laws;*
*Though Phalaris's brazen bull were there,*
*And he would dictate what he'd have you ſwear,*
*Be not ſo profligate, but rather chuſe*
*To guard your honour, and your life to loſe,*
*Rather than let your virtue be betrayed,*
*Virtue! the nobleſt cauſe for which you're made.*

STEPNEY.

This

Such is the rule. It may happen nevertheleſs, as we have already hinted, that the neceſſity a perſon is under, may furniſh a favourable exception, ſo as to hinder the action from being imputed. To explain this, we ſhould be obliged to enter into ſome particulars that belong to another place. It is ſufficient here to obſerve, that the circumſtances a perſon is under, give us frequent room to form a reaſonable preſumption, that the legiſlator himſelf excuſes him from ſuffering the evil with which he is menaced, and therefore allows him to deviate from the deciſion of the law; and this may be always preſumed, when the ſide a perſon takes, in order to extricate himſelf from his perplexity, includes a leſſer evil than that with which he is menaced.

IX. But Puffendorf's principles concerning this queſtion ſeem to be neither juſt in themſelves, nor well connected. He lays down as a rule, that conſtraint, as well as phyſical and actual violence, excludes all imputation, and that an action extorted through fear, ought no more to be imputed to the immediate agent, than to the ſword which a perſon uſes in giving a wound. To which he adds, that with regard to ſome very infamous actions, it is a mark of a generous mind to chuſe rather to die than to ſerve as an inſtrument to ſuch flagitious deeds, and that caſes like theſe ought to be excepted *. But it has been juſtly obſerved, that this author gives too

Puffendorf's opinion.

* See the Duties of Man and a Citizen, book i. chap. i. § 24. and the Law of Nature and Nations, book i. chap. v. § 9. with Barbeyrac's notes.

great an extent to the effect of conſtraint; and that the example of the ax or ſword, which are mere paſſive inſtruments, proves nothing at all. Beſides, if the general principle is ſolid, we don't ſee why he ſhould have excepted particular caſes; or at leaſt he ought to have given us ſome rule to diſtinguiſh thoſe exceptions with certainty.

Of actions in which more perſons than one are concerned.

X. 10. But if the perſon who does a bad action through fear, is generally anſwerable for it, the author of the conſtraint is not leſs ſo; and we may juſtly render him accountable for the ſhare he has had therein.

This gives us an opportunity to add a few reflections on thoſe caſes in which ſeveral perſons concur to the ſame action; and to eſtabliſh ſome principles whereby we may determine in what manner the action of one perſon is imputable to another. This ſubject being of great uſe and importance, deſerves to be treated with exactneſs.

1. Every man, ſtrictly ſpeaking, is anſwerable only for his own actions, that is, for what he himſelf has done or omitted: for with regard to another perſon's actions, they cannot be imputed to us, but inaſmuch as we have concurred to them, and as we could and ought to have procured, hindered, or at leaſt directed them after a certain manner. The thing ſpeaks for itſelf. For to impute another man's actions to a perſon, is declaring that the latter is the efficient, though not the only cauſe thereof; and conſequently that this action depended in ſome meaſure on his will, either in its principle, or execution.

2. This

2. This being premiſed, we may affirm that every man is under a general obligation of doing all he can to induce every other perſon to diſcharge his duty, and to prevent him from committing a bad action, and conſequently not to contribute thereto himſelf, either directly or indirectly, with a premeditated purpoſe and will.

3. By a much ſtronger reaſon we are anſwerable for the actions of thoſe over whom we have a particular inſpection, and whoſe direction is committed to our care; wherefore the good or evil done by thoſe perſons, is not only imputable to themſelves, but likewiſe to thoſe to whoſe direction they are ſubject; according as the latter have taken or neglected the care that was morally neceſſary, ſuch as the nature and extent of their commiſſion and power required. It is on this footing we impute, for example, to the father of a family, the good or bad conduct of his children.

4. Let us obſerve likewiſe, that in order to be reaſonably eſteemed to have concurred to another man's action, it is not at all neceſſary for us to be ſure of procuring or hindering it, by doing or omitting particular things; it is ſufficient, in this reſpect, that we have ſome probability, or veriſimilitude. And as, on the one ſide, this default of certainty does not excuſe neglect; on the other, if we have done all that we ought, the want of ſucceſs cannot be imputed to us; the blame in that caſe falls intirely upon the immediate author of the action.

5. In fine, it is proper alſo to remark, that in the queſtion now before us, we are not inquiring into the degree of virtue or malice which is found

in the action itſelf, and rendering it better or worſe, augments its praiſe or cenſure, its recompence or puniſhment. All that we want, is to make a proper eſtimate of the degree of influence a perſon has had over another man's action, in order to know whether he can be conſidered as the moral cauſe thereof, and whether this cauſe is more or leſs efficacious. To diſtinguiſh this properly, is a matter of ſome importance.

Three ſorts of moral cauſes; principal; ſubaltern; and collateral.

XI. In order to meaſure, as it were, this degree of influence, which decides the manner wherein we can impute to any one, another man's action, there are ſeveral circumſtances and diſtinctions to obſerve, without which we ſhould form a wrong judgment of things. For example, it is certain that a ſimple approbation, generally ſpeaking, has much leſs efficacy to induce a perſon to act, than a ſtrong perſuaſion, or a particular inſtigation. And yet the high opinion we conceive of a perſon, and the credit from thence ariſing, may occaſion a ſimple approbation to have ſometimes as great, and perhaps a greater influence over a man's action, than the moſt preſſing perſuaſion, or the ſtrongeſt inſtigation from another quarter.

We may range under three different claſſes, the moral cauſes that influence another man's action. Sometimes it is a principal cauſe, inſomuch that the perſon who executes is only a ſubaltern agent; ſometimes the immediate agent, on the contrary, is the principal cauſe, while the other is only the ſubaltern; and at other times they are both collateral cauſes, which have an equal influence over the action.

XII. A perſon ought to be eſteemed the principal cauſe, who by doing or omitting ſome things, influences in ſuch a manner another man's action or omiſſion, that, were it not for him, this action or omiſſion would not have happened, though the immediate agent has knowingly contributed to it. An officer, by expreſs order of his general or prince, performs an action evidently bad: in this caſe the prince or general is the principal cauſe, and the officer only the ſubaltern. David was the principal cauſe of the death of Uriah, though Joab contributed thereto, being ſufficiently apprized of the king's intention. In like manner Jezebel was the principal cauſe of the death of Naboth *.

I mentioned that the immediate agent muſt have contributed knowingly to the action. For ſuppoſe he could not know whether the action be good or bad, he can then be conſidered only as a ſimple inſtrument; but the perſon who gave the orders, being in that caſe the only and abſolute cauſe of the action, is the only one anſwerable for it. Such in general is the caſe of ſubjects, who ſerve by order of their ſovereign in an unjuſt war.

But the reaſon why a ſuperior is deemed the principal cauſe of what is done by thoſe that depend on him, is not properly their dependance; it is the order he gives them, without which it is ſuppoſed they would not of themſelves have attempted the action. From whence it follows, that every other perſon, who has the ſame influence over the actions of his equals, or even of his ſuperiors, may for the

* See 2 Sam. chap. ii. and 1 Kings, chap. xxi.

ſame reaſon be conſidered as the principal cauſe. This is what we may very well apply to the counſellors of princes, or to eccleſiaſtics that have an aſcendency over their minds, and who make a wrong uſe of it ſometimes, in order to perſuade them to things which they would never have determined to do of themſelves. In this caſe, praiſe or blame falls principally on the author of the ſuggeſtion or counſel *.

XIII. A collateral cauſe is he who in doing or omitting certain things, concurs ſufficiently, and as much as in him lies, to another man's action: inſomuch that he is ſuppoſed to co-operate with him; though one cannot abſolutely preſume, that without his concurrence the action would not have been committed. Such are thoſe who furniſh ſuccours to the immedi-

* We ſhall tranſcribe here, with pleaſure, the judicious reflections of M. Bernard (Nouvelles de la republique des lettres, Auguſt 1702. p. 291.) In England it is very common to charge the faults of the prince to the miniſters; and I own, that very often the charge is juſt. But the crimes of the miniſters do not always excuſe the faults of the ſovereign; for after all, they have reaſon and underſtanding as well as other people, and are maſters to do as they pleaſe. If they let themſelves be too much governed by thoſe that have the freeſt acceſs to them, it is their fault. They ought on ſeveral occaſions to ſee with their own eyes, and not to be led by the noſe by a wicked and avaricious courtier. But if they are incapable to manage matters themſelves, and to diſtinguiſh good from evil, they ought to reſign the care of government to others that are capable: for I do not know, why we may not apply to princes who govern ill, the ſaying of Charles Borromeus, in reſpect to biſhops who do not feed properly their flocks: IF THEY ARE INCAPABLE OF SUCH AN EMPLOYMENT, WHY SO MUCH AMBITION? IF THEY ARE CAPABLE, WHY SO MUCH NEGLECT?

ate agent; or thoſe who ſhelter and protect him; for example, he who, while another breaks open the door, watches all the avenues of the houſe, in order to favour the robbery, &c. A conſpiracy among ſeveral people, renders them generally all guilty alike. They are all ſuppoſed equal and collateral cauſes, as being aſſociated for the ſame fact, and united in intereſt and will. And though each of them has not an equal part in the execution, yet their actions may be very well charged to one another's account.

XIV. Finally, a ſubaltern cauſe is he who has but a ſmall influence or ſhare in another man's action, and is only a ſlight occaſion thereof by facilitating its execution; inſomuch that the agent, already abſolutely determined to act, and having all the neceſſary means for ſo doing, is only encouraged to execute his reſolution; as when a perſon tells him the manner of going about it, the favourable moment, the means of eſcaping, &c. or when he commends his deſign, and animates him to purſue it.

May not we rank in the ſame claſs the action of a judge, who, inſtead of oppoſing an opinion ſupported by a generality of votes, but by himſelf adjudged erroneous, ſhould acquieſce therein, either through fear or complaiſance? Bad example muſt be alſo ranked among the ſubaltern cauſes. For generally ſpeaking, examples of this nature make impreſſion only on thoſe who are otherwiſe inclined to evil, or ſubject to be eaſily led aſtray; inſomuch that thoſe who ſet ſuch examples, contribute but very weakly to the evil committed by imitation. And yet there are ſome examples ſo very efficacious,

by reaſon of the character of the perſons that ſet them, and the diſpoſition of thoſe who follow them, that if the former had refrained from evil, the latter would never have thought of committing it. Such are the bad examples of ſuperiors, or of men who by their knowledge and reputation have a great aſcendency over others; theſe are particularly culpable of the evil which enſues from the imitation of their actions. We may reaſon in the ſame manner with reſpect to ſeveral other caſes. According as circumſtances vary, the ſame things have more or leſs influence on other men's actions, and conſequently thoſe who by ſo doing concur to theſe actions, ought to be conſidered ſometimes as principal, ſometimes as collateral, and ſometimes as ſubaltern cauſes.

Application of theſe diſtinctions.

XV. The application of theſe diſtinctions and principles is obvious. Suppoſing every thing elſe equal, collateral cauſes ought to be judged alike. But principal cauſes merit without doubt more praiſe or blame, and a higher degree of recompence or puniſhment than ſubaltern cauſes. I ſaid, *ſuppoſing every thing elſe equal*; for it may happen, through a diverſity of circumſtances, which augment or diminiſh the merit or demerit of an action, that the ſubaltern cauſe acts with a greater degree of malice than the principal one, and the imputation is thereby aggravated in reſpect to the ſubaltern. Let us ſuppoſe, for example, that a perſon in cool blood aſſaſſinates a man, at the inſtigation of one who was animated thereto by ſome atrocious injury he had received from his enemy. Though the inſtigator is the principal author

thor of the murder, yet his action, done in a tranſport of choler, will be eſteemed leſs heinous than that of the murderer, who, calm and ſerene himſelf, was the baſe inſtrument of the other's paſſion.

We ſhall cloſe this chapter with a few remarks: And 1. though the diſtinction of three claſſes of moral cauſes, in reſpect to another man's action, be in itſelf very well founded, we muſt own, nevertheleſs, that the application thereof to particular caſes is ſometimes difficult. 2. In dubious caſes, we ſhould not eaſily charge, as a principal cauſe, any other perſon but the immediate author of the action; we ought to conſider thoſe who have concurred thereto, rather as ſubaltern, or at the moſt as collateral cauſes. 3. In fine, it is proper to obſerve, that Puffendorf, whoſe principles we have followed, ſettles very juſtly the diſtinction of moral cauſes; but not having exactly defined theſe different cauſes, in the particular examples he alledges, he refers ſometimes to one claſs what properly belonged to another. This has not eſcaped Monſ. Barbeyrac, whoſe judicious remarks have been here of particular uſe to us*.

* See Barbeyrac's notes on the Duties of Man and a Citizen, book i. chap. i. § 27.

CHAP.

## CHAP. XII.

### *Of the authority and ſanction of natural laws *; and* 1. *of the good or evil that naturally and generally follows from virtue or vice.*

What is meant by the authority of natural law.

I. WE underſtand here, by the authority of natural laws, the force they receive from the approbation of reaſon, and eſpecially from their being acknowledged to have God for their author: This is what lays us under a ſtrict obligation of conforming our conduct to them, becauſe of the ſovereign right which God has over his creatures. What has been already explained, concerning the origin and nature, reality and certainty of thoſe laws, is ſufficient, methinks, to eſtabliſh alſo their authority. Yet we have ſtill ſome ſmall matter to ſay in relation to this ſubject. The force of laws, properly ſo called, depends principally on their ſanction †. This is what gives a ſtamp, as it were, to their authority. It is therefore a very neceſſary and important point, to inquire whether there be really any ſuch thing as a ſanction of natural laws, that is, whether they are accompanied with comminations and promiſes, puniſhments, and rewards.

* See Puffendorf, Law of Nature and Nations, book ii. chap. iii. § 21.

† See part i. chap. x. § 11.

II. The

The obſervance of natural laws forms the happineſs of man and ſociety.

II. The firſt reflection that preſents itſelf to our minds, is, that the rules of conduct, diſtinguiſhed by the name of natural laws, are proportioned in ſuch a manner to our nature, to the original diſpoſitions and natural deſires of our ſoul, to our conſtitution, to our wants and actual ſituation in life, that it evidently appears they are made for us. For in general, and every thing well conſidered, the obſervance of thoſe laws is the only means of procuring a real and ſolid happineſs to individuals, as well as to the public; whereas the infraction thereof precipitates men into diſorders prejudicial alike to individuals, as to the whole ſpecies. This is, as it were, the firſt ſanction of natural laws.

Eclairciſſements on the ſtate of the queſtion.

III. In order to prove our point, and to eſtabliſh rightly the ſtate of the queſtion, we muſt obſerve, 1. that when the obſervance of natural laws is ſaid to be capable alone of forming the happineſs of man and ſociety, we do not mean that this happineſs can be ever perfect, or ſuperior to all expectation; humanity having no pretence to any thing of this kind; and if virtue itſelf cannot produce this effect, it is not at all probable that vice has any advantage over her in this reſpect.

2. As we are inquiring which is the proper rule that man ought to go by, our queſtion is properly reduced to this point, whether in general, and every thing conſidered, the obſervance of natural laws is not the propereſt and ſureſt means to conduct man to his end, and to procure him the pureſt, the compleateſt, and the moſt durable happineſs that can poſſibly be enjoyed in this world; and not only with regard

regard to ſome perſons, but to all mankind; not only in particular caſes, but likewiſe through the whole courſe of life.

On this footing, it will not be a difficult taſk to prove, as well by reaſon as by experience, that the proper and ordinary effect of virtue is really ſuch as has been mentioned, and that vice, or the irregularity of paſſions, produces a quite oppoſite effect.

Proof of the abovementioned truth, by reaſon.

IV. We have already ſhewn, in diſcourſing of the nature and ſtate of humanity, that in what manner and light ſoever we conſider the ſyſtem of humanity, man can neither anſwer his end, nor perfect his talents and faculties, nor acquire any ſolid happineſs, or reconcile it with that of his fellow-creatures, but by the help of reaſon; that it ought to be therefore his firſt care to improve his reaſon, to conſult it, and follow the counſels thereof; that it informs him, there are ſome things which are fit and others unfit for him; that the former have not all an equal fitneſs, nor in the ſame manner: that he ought therefore to make a proper diſtinction between good and evil, in order to regulate his conduct: that true happineſs cannot conſiſt in things incompatible with his nature and ſtate: and, in fine, that ſince the future ought to be equally the object of his views as the preſent and paſt, it is not ſufficient, in order to attain certain happineſs, to conſider merely the preſent good or evil of each action; but we ſhould likewiſe recollect what is paſt, and extend our views to futurity, in order to combine the whole, and ſee what ought to be the reſult thereof in the intire duration of our being. Theſe are ſo many evident

evident and demonſtrable truths. Now the laws of nature are no more than conſequences of theſe primitive truths; whence it appears that they have neceſſarily, and of themſelves, a great influence on our happineſs. And how is it poſſible to call this in queſtion, after having ſeen in the courſe of this work, that the ſole method to diſcover the principles of thoſe laws, is to ſet out with the ſtudy of the nature and ſtate of man, and to inquire afterwards into what is eſſentially agreeable to his perfection and happineſs.

V. But that which appears ſo clear and ſo well eſtabliſhed by reaſon, is rendered inconteſtible by experience. In fact, we generally obſerve, that virtue, that is, the obſervance of the laws of nature, is of itſelf a ſource of internal ſatisfaction, and that it is infinitely advantageous in its effects, whether in particular to individuals, or to human ſociety in general, whereas vice is attended with quite different conſequences.

Proofs by experience. 1. Virtue is of itſelf the principle of an inward ſatisfaction; and vice a principle of diſquiet and trouble.

Whatever is contrary to the light of reaſon and conſcience, cannot but be accompanied with a ſecret diſapprobation of mind, and afford us vexation and ſhame. The heart is afflicted with the idea of the crime, and the remembrance thereof is always bitter and ſorrowful. On the contrary, every conformity to right reaſon is a ſtate of order and perfection, which the mind approves; and we are framed in ſuch a manner, that a good action becomes the ſeed, as it were, of a ſecret joy; and we always recollect it with pleaſure. And indeed, what can be ſweeter or more comfortable, than to be able to bear an inward

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teſtimony to ourſelves, that we are what we ought to be, and that we perform what is reaſonably our duty, what fits us beſt, and is moſt conformable to our natural deſtination? Whatever is natural, is agreeable; and whatever is according to order, is a ſubject of ſatisfaction and content.

Of external goods and evils, which are the conſequence of virtue and vice.

VI. Beſides this internal principle of joy, which attends the practice of natural laws, we find it produces externally all ſorts of good effects. It tends to preſerve our health, and to prolong our days; it exerciſes and perfects the faculties of the mind; it renders us fit for labour, and for all the functions of domeſtic and civil life; it ſecures to us the right uſe and poſſeſſion of all our goods and property; it prevents a great number of evils, and ſoftens thoſe it cannot prevent; it procures us the confidence, eſteem, and affection of other men; from whence reſult the greateſt comforts of ſocial life, and the moſt effectual helps for the ſucceſs of our undertakings.

Obſerve on what the public ſecurity, the tranquillity of families, the proſperity of ſtates, and the abſolute welfare of every individual are founded. Is it not on the grand principles of religion, temperance, modeſty, beneficence, juſtice, and ſincerity? Whence ariſe, on the contrary, the greateſt part of the diſorders and evils that trouble ſociety, and break in upon the happineſs of man? Whence, but from the neglect of thoſe very principles? Beſides the inquietude and infamy that generally accompanies irregularity and debauch, vice is likewiſe attended with a multitude of external evils, ſuch as the enfeebling of the

the body and mind, diſtempers and untoward accidents, poverty very often and miſery, violent and dangerous parties, domeſtic jars, enmities, continual fears, diſhonour, puniſhments, contempt, hatred, and a thouſand croſſes and difficulties in every thing we undertake. One of the ancients has very elegantly ſaid *, *that malice drinks one half of her own poiſon.*

VII. But if ſuch are the natural conſequences of virtue and vice in reſpect to the generality of mankind, theſe effects are ſtill greater among thoſe who by their condition and rank have a particular influence on the ſtate of ſociety, and determine the fate of other men. What calamities might not the ſubjects apprehend, if their ſovereigns were to imagine themſelves ſuperior to rule, and independent of all law; if directing every thing to themſelves, they were to liſten only to their own whims and caprice, and to abandon themſelves to injuſtice, ambition, avarice, and cruelty? What good, on the contrary, muſt not ariſe from the government of a wiſe and virtuous prince; who conſidering himſelf under a particular obligation of never deviating from the rules of piety, juſtice, moderation, and beneficence, exerciſes his power with no other view, but to maintain order within, and ſecurity without, and places his glory in ruling his ſubjects uprightly, that is, in making them wiſe and happy? We need only have recourſe to hiſtory, and conſult experience, to be

These different effects of virtue and vice are ſtill greater among thoſe who are inveſted with power and authority.

* Seneca, ep. 82. *Quemadmodum Attalus noſter dicere ſolebat, malitia ipſa maximam partem veneni ſui bibit.*

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convinced that theſe are real truths, which no reaſonable perſon can conteſt.

Confirmation of this truth by the confeſſion of all nations.

VIII. This is a truth ſo generally acknowledged, that all the inſtitutions which men form among themſelves for their common good and advantage, are founded on the obſervance of the laws of nature; and that even the precautions taken to ſecure the effect of theſe inſtitutions, would be vain and uſeleſs, were it not for the authority of thoſe very laws. This is what is manifeſtly ſuppoſed by all human laws in general; by the eſtabliſhments for the education of youth; by the political regulations which tend to promote the arts and commerce; and by public as well as private treaties. For of what uſe would all thoſe things be, or what benefit could accrue from thence, were we not previouſly to eſtabliſh them on juſtice, probity, ſincerity, and the ſacred inviolability of an oath, as on their real foundation and baſis?

Confirmation of the ſame truth by the abſurdity of the contrary.

IX. But in order to be more ſenſibly ſatisfied of this truth, let any one try, that pleaſes, to form a ſyſtem of morality on principles directly oppoſite to thoſe we have now eſtabliſhed. Let us ſuppoſe that ignorance and prejudice take place of knowledge and reaſon; that caprice and paſſion are ſubſtituted inſtead of prudence and virtue: let us baniſh juſtice and benevolence from ſociety, and from the commerce of mankind, to make room for unjuſt ſelf-love, which calculating every thing for itſelf, takes no notice of other people's intereſt, or of the public advantage. Let us extend and apply theſe principles to the particular conditions of human life, and

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we ſhall ſee what muſt be the reſult of a ſyſtem of this kind, were it ever to be received and paſs for a rule. Can we imagine it would be able to produce the happineſs of ſociety, the good of families, the advantage of nations, and the welfare of mankind? No one has ever yet attempted to maintain ſuch a paradox; ſo evident and glaring is the abſurdity thereof.

Anſwer to ſome particular objections.

X. I am not ignorant, that injuſtice and paſſion are capable in particular caſes of procuring ſome pleaſure or advantage. But not to mention that virtue produces much oftener and with greater certainty the ſame effects; reaſon and experience inform us, that the good procured by injuſtice is not ſo real, ſo durable, nor ſo pure, as that which is the fruit of virtue. This is becauſe the former being unconformable to the ſtate of a rational and ſocial being, is defective in its principle, and has only a deceitful appearance*. It is a flower which having no root, withers and falls almoſt as ſoon as it bloſſoms.

With regard to ſuch evils and misfortunes as are annexed to humanity, and to which it may be ſaid, that virtuous people are expoſed as well as others; certain it is, that virtue has here alſo a great many advantages. In the firſt place, it is very proper of itſelf to prevent or remove ſeveral of thoſe evils; and thus we obſerve that wiſe and ſober people actually eſcape a great many precipices and ſnares into which the vicious and inconſiderate are hurried. 2. In caſes wherein wiſdom and prudence cannot prevent thoſe evils, yet it gives the ſoul a ſufficient vigour to

* See part i. chap. vi. § 3.

ſupport them, and counterbalances them with ſweets and conſolations which contribute to abate in great meaſure their impreſſion. Virtue is attended with an inſeparable contentment, of which nothing can bereave us; and our eſſential happineſs is very little impaired by the tranſitory, and, in ſome meaſure, external accidents that ſometimes diſturb us.

*Surpriſed I am,* (ſays Iſocrates,) * *that any one ſhould imagine, that thoſe who adhere conſtantly to piety and juſtice, muſt expect to be more unhappy than the unrighteous, and have not a right to promiſe themſelves greater advantages from the gods and men. For my part, I am of opinion, that the virtuous alone abundantly enjoy whatever is worthy of our purſuit; and the wicked, on the contrary, are entirely ignorant of their real intereſts. He that prefers injuſtice to juſtice, and makes his ſovereign good conſiſt in depriving another*

* Θαυμάζω δ' εἴ τις οἴεται τὸς τὴν εὐσέβειαν καὶ τὴν δικαιοσύνην ἀσκοῦντας, καὶ καρτερεῖν καὶ μένειν ἐν τούτοις ἐθέλοντας, ἔλαττον ἕξειν τῶν πονηρῶν· ἀλλ' οὐχ ἡσσημένους καὶ παρὰ θεοῖς καὶ παρὰ ἀνθρώποις πλέον οἴσεσθαι, τῶν ἄλλων. ἐγὼ μὲν γὰρ οἶμαι τούτους μόνους, ὧν δεῖ πλεονεκτεῖν, τὸς δ' ἄλλους οὐδὲ γινώσκειν οὐδὲν ὧν βέλτιόν ἐσιν. ὁρῶ γὰρ τὸς μὲν τὴν ἀδικίαν προτιμῶντας, καὶ τὸ λαβεῖν τι τῶν ἀλλοτρίων μέγιστον ἀγαθὸν νομίζοντας, ὁμοίως πάσχοντας τοῖς δουλευομένοις τῶν ζώων, καὶ καταρχὰς μὲν ἀπολαύοντας ὧν ἂν λάβωσιν, ὀλίγῳ δ' ὕστερον ἐν τοῖς μεγίστοις κακοῖς ὄντας· τὸς δὲ μετ' εὐσεβείας καὶ δικαιοσύνης ζῶντας, ἔν τε τοῖς παροῦσι χρόνοις ἀσφαλῶς διάγοντας, καὶ περὶ τοῦ σύμπαντος αἰῶνος ἐλπίδας ἔχοντας· καὶ ταυτ' εἰ μὴ κατὰ πάντων ὕτως εἴθισαι συμβαίνειν, ἀλλά τὸ γ' ὡς ἐπὶ τὸ πολὺ τοῦτον γίγνεσθαι τὸν τρόπον. χρὴ δὲ τὸς εὖ φρονοῦντας, ἐπειδὴ τὸ μέλλον ἀεὶ συνοίσειν ἕκαθορῶμεν, τὸ πολλάκις ὠφέλιμον τοῦτο φαίνεσθαι προαιρεμένους. πάντων δ' ἀλογώτατον πεπόνθασιν, ὅσοι κάλλιον μὲν ἐπίβουλευμα νομίζουσιν εἶναι, καὶ θεοφιλέστερον τὴν δικαιοσύνην τῆς ἀδικίας χεῖρον δ' οἴονται βιώσεσθαι τὸς ταύτῃ χρωμένους, τῶν τὴν πονηρίαν προηρημένων. *Iſocrat. Orat. de Permutatione.*

man

*man of his property, is like, methinks, to those brute creatures that are caught by the bait: the unjust acquisition flatters his senses at first, but he soon finds himself involved in very great evils. Those on the contrary who take up with justice and piety, are not only safe for the present, but have likewise reason to conceive good hopes for the remainder of their lives. I own, indeed, that this does not always happen; yet it is generally confirmed by experience. Now in things whose success cannot be infallibly foreseen, it is the business of a prudent man to embrace that side which most generally turns out to his advantage. But nothing is more unreasonable than the opinion of those, who believing that justice has something in it more beautiful and more agreeable to the gods than injustice, imagine nevertheless that those who embrace the former are more unhappy than such as abandon themselves to the latter.*

XI. Thus, every thing duly considered, the advantage is without comparison on the side of virtue. It manifestly appears, that the scheme of the divine wisdom was to establish a natural connection between physical and moral evil, as between the effect and the cause; and, on the contrary, to intail physical good, or the happiness of man, on moral good, or the practice of virtue: insomuch, that generally speaking, and pursuant to the original institution of things, the observance of natural laws is as proper and necessary to advance both the public and particular happiness, as temperance and good regimen is naturally conducive to the preservation of health. And as these natural rewards and punishments of virtue and vice, are an effect of the divine institution;

The advantage always ranges itself on the side of virtue; and this is the first sanction of the laws of nature.

they may be really conſidered, as a kind of ſanction of the laws of nature, which adds a conſiderable authority to the maxims of right reaſon.

General difficulty drawn from the exceptions, which render this firſt ſanction inſufficient.

XII. And yet we muſt acknowledge, that this firſt ſanction does not as yet ſeem ſufficient to give all the authority and weight of real laws, to the counſels of reaſon. For if we conſider the thing ſtrictly, we ſhall find, that by the conſtitution of human things, and by our natural dependance upon one another, the general rule above mentioned is not ſo fixt and invariable, but it admits of divers exceptions, by which the force and effect thereof muſt certainly be weakened.

The goods and evils of nature and fortune, are diſtributed unequally, and not according to each perſon's merit.

1. Experience, in general, ſhews us, that the degree of happineſs or miſery which every one enjoys in this world, is not always exactly proportioned and meaſured to the degree of virtue or vice of each particular perſon. Thus health, the goods of fortune, education, ſituation of life, and other external advantages, generally depend on a variety of conjunctures, which render their diſtribution very unequal; and theſe advantages are frequently loſt by accidents, to which all men are equally ſubject. True it is, that the difference of rank or riches does not abſolutely determine the happineſs or miſery of life: yet agree we muſt, that extreme poverty, the privation of all neceſſary means of inſtruction, exceſſive labour, afflictions of the mind, and pains of the body, are real evils, which a variety of caſualties may bring as well upon virtuous as other men.

The evils produced by injuſtice fall

2. Beſides this unequal diſtribution of natural goods and evils, honeſt men are no more ſheltered than

others from divers evils arising from malice, injuſtice, violence, and ambition. Such are the perſecutions of tyrants, the horrors of war, and ſo many other public or private calamities to which the good and the bad are indiſcriminately ſubject. It even frequently happens, that the authors of all thoſe miſeries are thoſe who feel leaſt their effects, either becauſe of their extraordinary ſucceſs and good fortune, or becauſe their inſenſibility is arrived to that pitch, as to let them enjoy, almoſt without trouble and remorſe, the fruit of their iniquities.

as well upon the innocent as the guilty.

3. Again. It is not unuſual to ſee innocence expoſed to calumny, and virtue itſelf become the object of perſecution. Now in thoſe particular caſes, in which the honeſt man falls, as it were, a victim to his own virtue, what force can the laws of nature be ſaid to have, and how can their authority be ſupported? Is the internal ſatisfaction ariſing from the teſtimony of a good conſcience, capable alone to determine man to ſacrifice his property, his repoſe, his honour, and even his life? And yet thoſe delicate conjunctures frequently happen; and the reſolution then taken, may have very important and extenſive conſequences in relation to the happineſs and miſery of ſociety.

Sometimes even virtue itſelf is the cauſe of perſecution.

XIII. Such is indeed the actual ſtate of things. On the one ſide we ſee, that in general the obſervance of natural laws is alone capable of eſtabliſhing ſome order in ſociety, and of conſtituting the happineſs of man; but on the other it appears, that virtue and vice are not always ſufficiently characteriſed by their effects, and by their common and natural conſe-

The means which human prudence employs to remedy thoſe diſorders are likewiſe inſufficient.

quences, to make this order on all occaſions prevail.

Hence ariſes a conſiderable difficulty againſt the moral ſyſtem by us eſtabliſhed. All laws, ſome will ſay, ought to have a ſufficient ſanction to determine a reaſonable creature to obey, by the proſpect of its own good and intereſt, which is always the primum mobile of its actions. Now though the moral ſyſtem you have ſpoke of, gives in general a great advantage to its followers, over thoſe who neglect it; yet this advantage is neither ſo great, nor ſo ſure, as to be capable to indemnify us ſufficiently in each particular caſe for the ſacrifices we are obliged to make in the diſcharge of our duty. This ſyſtem is not therefore as yet ſupported with all the authority and force neceſſary for the end that God propoſes; and the character of law, eſpecially of a law proceeding from an all-wiſe being, requires ſtill a more diſtinct, ſurer, and more extenſive ſanction.

That legiſlators and politicians have been ſenſible of this deficiency, is manifeſt, by their endeavouring to ſupply it in the beſt manner they are able. They have publiſhed a civil law, which tends to ſtrengthen the law of nature; they have denounced puniſhments againſt vice, promiſed rewards to virtue, and erected tribunals. This is undoubtedly a new ſupport of juſtice, and the beſt human method that could be contrived to prevent the forementioned inconveniences. And yet this method does not provide againſt every diſorder, but leaves ſtill a great vacuum in the moral ſyſtem.

For 1. there are ſeveral evils, as well natural as ariſing from human injuſtice, from which all the power

power of man cannot preſerve even the moſt virtuous. 2. Human laws are not always drawn up in conformity to juſtice and equity. 3. Let them be ſuppoſed never ſo juſt, they cannot extend to every caſe. 4. The execution of thoſe laws is ſometimes committed to weak, ignorant, or corrupt men. 5. How great ſoever the integrity of a magiſtrate may be, ſtill there are many things that eſcape his vigilance: he cannot ſee and redreſs every grievance. 6. It is not an unexampled caſe, that virtue inſtead of finding a protector in its judge, meets with an implacable enemy. What reſource ſhall be left to innocence in that caſe? To whom ſhall ſhe fly for ſuccour, if the very perſon that ought to undertake her protection and defence, is armed againſt her?

The difficulty propoſed, is of great conſequence.

XIV. Thus the difficulty ſtill ſubſiſts; a difficulty of very great conſequence, becauſe on the one ſide it makes againſt the plan of a divine providence, and on the other it may contribute to invalidate what we have ſaid in reſpect to the empire of virtue, and its neceſſary connexion with the felicity of man.

So weighty an objection that has been ſtarted in all ages, deſerves we ſhould carefully endeavour to remove it. But the greater and more real it is, the more probably we may preſume it has a proper ſolution. For how is it to be imagined, that the Divine Wiſdom could have left ſuch an imperfection, ſuch an enigma in the moral order, after having regulated every thing ſo well in the phyſical world?

Let us therefore ſee whether ſome new reflections on the nature and deſtination of man, will not direct us to a different place from the preſent life, for

the ſolution we are here inquiring. What has been ſaid concerning the natural conſequences of virtue and vice on this earth, already ſhews us a demi-ſanction of the laws of nature: let us try whether we cannot find an intire and proper one, whoſe ſpecies, degree, time, and manner, depend on the good will of the legiſlator, and are ſufficient to make all the compenſations required by ſtrict juſtice, and to place in this, as in every other reſpect, the ſyſtem of the divine laws much above thoſe of human inſtitution.

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## CHAP. XIII.

*Proofs of the immortality of the ſoul. That there is a ſanction, properly ſo called, in reſpect to natural law.*

State of the queſtion.

I. THE difficulty we have been ſpeaking of, and which we attempt here to illuſtrate, ſuppoſes, as every one may ſee, that the human ſyſtem is abſolutely limited to the preſent life, that there is no ſuch thing as a future ſtate, and conſequently that there is nothing to expect from the Divine Wiſdom in favour of the laws of nature, beyond what is manifeſted in this life.

Were it poſſible, on the contrary, to prove that the preſent ſtate of man is only the commencement of a more extenſive ſyſtem; and moreover, that the ſupreme Being has really been pleaſed to inveſt the rules of conduct preſcribed to us by reaſon, with all the authority of laws, by ſtrengthening them with

with a ſanction properly ſo called; we might in fine conclude, that there is nothing wanting to complete the moral ſyſtem.

Diviſion of opinions. How it is poſſible to know the will of God in reſpect to this point.

II. The learned are divided in their opinions with reſpect to theſe important queſtions. Some there are who maintain, that reaſon alone affords clear and demonſtrative proofs, not only of the rewards and puniſhments of a future life; but likewiſe of a ſtate of immortality. Others on the contrary pretend, that by conſulting reaſon alone, we meet with nothing but obſcurity and uncertainty, and that ſo far from finding any demonſtration this way, we have not even a probability of a future life.

It is carrying the thing too far, perhaps, on both ſides, to reaſon after this manner. Since the queſtion is concerning a point which depends intirely on the will of the Deity, the beſt way undoubtedly to know this will, would be an expreſs declaration on his ſide. But confining ourſelves within the circle of natural knowledge, let us try whether, independently of this firſt method, reaſon alone can afford us any ſure light in relation to this ſubject, or furniſh us with conjectures and preſumptions ſufficiently ſtrong, to infer from thence with any certainty the will of God. With this view, let us inveſtigate a little cloſer the nature and preſent ſtate of man, let us conſult the ideas which right reaſon gives us of the perfection of the ſupreme Being, and of the plan he has formed with reſpect to mankind; in order to know, in fine, the neceſſary conſequences of the natural laws he has been pleaſed to preſcribe.

III. With

Whether the ſoul is immortal?

III. With regard to the nature of man, we are firſt of all to inquire whether death be really the laſt term of our exiſtence, and the diſſolution of the body be neceſſarily followed with the annihilation of the ſoul; or whether the ſoul is immortal, that is, whether it ſubſiſts after the death of the body?

First proof. The nature of the ſoul ſeems intirely diſtinct from that of the body.

Now the immortality of the ſoul is ſo far from being in itſelf impoſſible, that reaſon ſupplies us with the ſtrongeſt conjectures, that this is in reality the ſtate for which it was deſigned.

The obſervations of the ableſt philoſophers diſtinguiſh abſolutely the ſoul from the body, as a being in its nature eſſentially different. 1. In fact, we do not find that the faculties of the mind, the underſtanding, the will, liberty, with all the operations they produce, have any relation to thoſe of extenſion, figure and motion, which are the properties of matter. 2. The idea we have of an extended ſubſtance, as purely paſſive, ſeems to be abſolutely incompatible with that proper and internal activity which diſtinguiſhes a thinking being. The body is not put into motion of itſelf, but the mind finds inwardly the principle of its own movements; it acts, it thinks, it wills, it moves the body; it turns its operations, as it pleaſes; it ſtops, proceeds, or returns the way it went. 3. We obſerve likewiſe, that our thinking part is a ſimple, ſingle, and indiviſible being; becauſe it collects all our ideas and ſenſations, as it were, into one point, by underſtanding, feeling, and comparing them, &c. which cannot be done by a being compoſed of various parts.

IV. The

IV. The ſoul ſeems therefore to be of a particular nature, to have nothing in common with groſs and material beings, but to be a pure ſpirit, that participates in ſome meaſure of the nature of the ſupreme Being. This has been very elegantly expreſſed by Cicero: *We cannot find*, ſays he *, *on earth the leaſt trace of the origin of the ſoul. For there is nothing mixt or compound in the mind; nothing that ſeems to proceed from the earth, water, air, or fire. Theſe elements have nothing productive of memory, underſtanding, reflection; nothing that is able to recall the paſt, to foreſee the future, and to embrace the preſent. We ſhall never find the ſource from whence man has derived thoſe divine qualities, but by tracing them up to God. It follows therefore, that the ſoul is endowed with a ſingular nature, which has nothing in it common with thoſe known and familiar elements. Hence, let the nature of a being that has ſenſation, underſtanding, will, and principle of life, be what it will, this being is ſurely heavenly, divine, and conſequently immortal.*

Death does not therefore neceſſarily imply the annihilation of the ſoul.

* Animorum nulla in terris origo inveniri poteſt: nihil enim in animis mixtum atque concretum, aut quod ex terrâ natum atque fictum eſſe videatur: nihil ne aut humidum quidem aut ſtabile aut igneum. His enim in naturis nihil ineſt, quod vim memoriæ, mentis, cogitationis habeat; quod et præterita teneat, & futura provideat, & complecti poſſit præſentia: quæ ſola divina ſunt; nec invenietur unquam, unde ad hominem venire poſſint niſi a Deo. Singularis eſt igitur quædam natura atque vis animi, ſejuncta ab his uſitatis notiſque naturis. Ita quicquid eſt illud, quod ſentit, quod ſapit, quod vivit, quod viget, cœleſte et divinum ob eamque rem æternum ſit neceſſe eſt. *Cic. Tuſcul. diſput. lib.* 1. *cap.* 27.

This

This concluſion is very juſt. For if the ſoul be eſſentially diſtinct from the body, the deſtruction of the one is not neceſſarily followed with the annihilation of the other; and thus far nothing hinders the ſoul from ſubſiſting, notwithſtanding the deſtruction of its ruinous habitation.

Objection. Anſwer.

V. Should it be ſaid, that we are not ſufficiently acquainted with the intrinſic nature of ſubſtances, to determine that God could not communicate thought to ſome portion of matter; I ſhould anſwer, that we cannot however judge of things but according to their appearance and our ideas; otherwiſe, whatever is not founded on a ſtrict demonſtration, muſt be uncertain, and this would terminate in a kind of pyrrhoniſm. All that reaſon requires is, that we diſtinguiſh properly between what is dubious, probable, or certain; and ſince all we know in relation to matter, does not ſeem to have any affinity with the faculties of the ſoul; and as we even find in one and the other, qualities that ſeem incompatible; it is not preſcribing limits to the Divine Power, but rather following the notions that reaſon has furniſhed us, to affirm it is highly probable, that the thinking part of man is eſſentially diſtinct from the body.

Confirmation of the preceding truth. Nothing in nature is annihilated.

VI. But let the nature of the ſoul be what it will, and be it even, though contrary to all appearance, ſuppoſed corporeal; ſtill it would no ways follow, that the death of the body muſt neceſſarily bring on the annihilation of the ſoul. For we do not find an inſtance of any annihilation properly ſo called. The body itſelf, how

how inferior ſoever to the mind, is not annihilated by death. It receives, indeed, a great alteration; but its ſubſtance remains always eſſentially the ſame, and admits only a change of modification or form. Why therefore ſhould the ſoul be annihilated? It will undergo, if you pleaſe, a great mutation; it will be detached from the bonds that unite it to the body, and will be incapable of operating in conjunction with it: But is this an argument that it cannot exiſt ſeparately, or that it loſes its eſſential quality, which is that of underſtanding? This does not at all appear; for one does not follow from the other.

Were it therefore impoſſible for us to determine the intrinſic nature of the ſoul, yet it would be carrying the thing too far, and concluding beyond what we are authoriſed by fact to maintain, that death is neceſſarily attended with a total deſtruction of the ſoul. The queſtion is therefore reducible to this point: Is God willing to annihilate, or to preſerve the ſoul? But if what we know in reſpect to the nature of the ſoul, does not incline us to think it is deſtined to periſh by death; we ſhall ſee likewiſe, that the conſideration of its excellency is a very ſtrong preſumption in favour of its immortality.

VII. And indeed it is not at all probable, that an intelligent being, capable of knowing ſuch a multitude of truths, of making ſo many diſcoveries, of reaſoning upon an infinite number of things, of diſcerning their proportions, fitneſs, and beauties; of contemplating the works of the Creator, of tracing them up to him, of obſerving his deſigns, and penetrating into their cauſes; of raiſing himſelf above

Second proof. The excellency of the ſoul.

bove all ſenſible things to the knowledge of ſpiritual and divine ſubjects; that has a power to act with liberty and diſcernment, and to array himſelf with the moſt beautiful virtues; it is not, I ſay, at all probable, that a being adorned with qualities of ſo excellent a nature, and ſo ſuperior to thoſe of brute animals, ſhould have been created only for the ſhort ſpace of this life. Theſe conſiderations made a lively impreſſion upon the ancient philoſophers. *When I conſider*, ſays Cicero*, *the ſurprizing activity of the mind, ſo great a memory of what is paſt, and ſuch an inſight into futurity; when I behold ſuch a number of arts and ſciences, and ſuch a multitude of diſcoveries from thence ariſing; I believe, and am firmly perſuaded, that a nature which contains ſo many things within itſelf, cannot be mortal.*

Confirmation. Our faculties are always ſuſceptible of a greater degree of perfection.

VIII. Again: Such is the nature of the human mind, that it is always capable of improvement, and of perfecting its faculties. Though our knowledge is actually confined within certain limits, yet we ſee no bounds to that which we are capable of acquiring, to the inventions we are able to make, to the progreſs of our judgment, prudence, and virtue. Man is in this reſpect always ſuſceptible of ſome new degree of perfection and maturity. Death overtakes him before he has finiſhed, as it were, his progreſs, and when he was capable of proceeding a great deal farther. *How can it enter*, ſays a celebrated Engliſh

* Quid multa? Sic mihi perſuaſi, ſic ſentio, cùm tanta celeritas animorum ſit, tanta memoria præteritorum futurorumque prudentia, tot artes, tantæ ſcientiæ, tot inventa, non poſſe eam naturam, quæ res eas contineat, eſſe mortalem. *Cic. de Senec. cap.* 2.

writer*, *into the thoughts of man, that the ſoul, which is capable of ſuch immenſe perfections, and of receiving new improvements to all eternity, ſhall fall away into nothing almoſt as ſoon as it is created? Are ſuch abilities made for no purpoſe? A brute arrives at a point of perfection that he can never paſs: In a few years he has all the endowments he is capable of; and were he to live ten thouſand more, would be the ſame thing he is at preſent. Were a human ſoul thus at a ſtand in her accompliſhments, were her faculties to be full blown, and incapable of further enlargements, I could imagine it might fall away inſenſibly, and drop at once into a ſtate of annihilation. But can we believe a thinking being, that is in a perpetual progreſs of improvements, and travelling on from perfection to perfection, after having juſt looked abroad into the works of its Creator, and made a few diſcoveries of his infinite goodneſs, wiſdom, and power, muſt periſh at her firſt ſetting out, and in the very beginning of her enquiries?*

IX. True it is, that moſt men debaſe themſelves in ſome meaſure to an animal life, and have very little concern about the improvement of their faculties. But if thoſe people voluntarily degrade themſelves, this ought to be no prejudice to ſuch as chuſe to ſupport the dignity of their nature; neither does it invalidate what we have been ſaying in regard to the excellency of the ſoul. For to judge rightly of things, they ought to be conſidered in themſelves, and in their moſt perfect ſtate. Objection. Anſwer.

* SPECTATOR, Vol. II. N° 111.

X. It

Third proof, drawn from our natural diſpoſitions and deſires.

X. It is undoubtedly in conſequence of the natural ſenſe of the dignity of our being, and of the grandeur of the end we are deſigned for, that we naturally extend our views to futurity; that we concern ourſelves about what is to happen after our death; that we ſeek to perpetuate our name and memory, and are not inſenſible to the judgment of poſterity. Theſe ſentiments are far from being the illuſion of ſelf-love or prejudice. The deſire and hope of immortality is an impreſſion we receive from nature. And this deſire is ſo very reaſonable in itſelf, ſo uſeful, and ſo cloſely connected with the ſyſtem of humanity, that we may at leaſt infer from thence a very probable induction in favour of a future ſtate. How great ſoever the vivacity of this deſire may be in itſelf, ſtill it increaſes in proportion as we take more care to cultivate our reaſon, and as we advance in the knowledge of truth and the practice of virtue. This ſentiment becomes the ſureſt principle of noble, generous, and public-ſpirited actions; and we may affirm, that were it not for this principle, all human views would be low, mean, and ſordid.

All this ſeems to point out to us clearly, that by the inſtitution of the Creator, there is a kind of natural proportion and relation between the ſoul and immortality. For it is not by deceit and illuſion that the Supreme Wiſdom conducts us to his propoſed end: a principle ſo reaſonable and neceſſary; a principle that cannot but be productive of good effects, that raiſes man above himſelf, and renders him not only capable of the ſublimeſt undertakings, but ſuperior to the moſt delicate temptations, and ſuch as are moſt dangerous

gerous to virtue; ſuch a principle, I ſay, cannot be chimerical*.

Thus every thing concurs to perſuade us that the ſoul muſt ſubſiſt after death. The knowledge we have of the nature of the mind; its excellence and faculties ever ſuſceptible of a higher degree of perfection; the diſpoſition which prompts us to raiſe ourſelves above the preſent life, and to deſire immortality; are all ſo many natural indications, and form the ſtrongeſt preſumption, that ſuch indeed is the intention of the Creator.

XI. The clearing up of this firſt point is of great importance in regard to our principal queſtion, and ſolves already, in part, the difficulty we are examining. For when once the ſoul is ſuppoſed to ſubſiſt after the diſſolution of the body, nothing can hinder us from ſaying, that whatever is wanting in the preſent ſtate to complete the ſanction of natural law, will be executed hereafter, if ſo it be agreeable to the Divine Wiſdom.

The ſanction of natural laws will ſhew itſelf in a future life.

We come now from conſidering man on the phyſical ſide, which opens us already a paſſage towards

* Cicero gives an admirable picture of the influence which the deſire and hope of immortality has had in all ages, to excite men to great and noble actions. "Nemo unquam, *ſays he*, "ſine magna ſpe immortalitatis ſe pro patria offerret ad mortem. "Licuit eſſe otioſo Themiſtocli; licuit Epaminondæ; licuit, ne "et vetera et externa quæram, mihi: ſed neſcio quo modo in- "hæret in mentibus quaſi ſæculorum quoddam augurium futu- "rorum; idque in maximis ingeniis altiſſimiſque animis exiſtit "maxime, et apparet facillimè. Quoquidem dempto, quis tam "eſſet amens, qui ſemper in laboribus et periculis viveret?" *Tuſcul. Quæſt. lib.* 1. *cap.* 15.

finding the object of our preſent purſuit. Let us ſee now whether by viewing man on the moral ſide, that is, as a being capable of rule, who acts with knowledge and choice, and whether raiſing ourſelves afterwards to God, we cannot diſcover new reaſons and ſtill ſtronger preſumptions of a future life, of a ſtate of rewards and puniſhments.

Here we cannot avoid repeating part of thoſe things which have been already mentioned in this work, becauſe we are upon the point of conſidering their intire reſult; the truth we intend here to eſtabliſh being, as it were, the concluſion of the whole ſyſtem. It is thus a painter, after having worked ſingly upon each part of his piece, thinks it neceſſary to retouch the whole, in order to produce what is called the *total effect and harmony*.

First proof, drawn from the nature of man conſidered on the moral ſide.

XII. Man, we have ſeen, is a rational and free agent, who diſtinguiſhes juſtice and honeſty, who finds within himſelf the principles of conſcience, who is ſenſible of his dependance on the Creator, and born to fulfill certain duties. His greateſt ornament is reaſon and virtue; and his chief taſk in life is to advance in that path, by embracing all the occaſions that offer, to improve, to reflect, and to do good. The more he practiſes and confirms himſelf in ſuch laudable occupations, the more he accompliſhes the views of the Creator, and proves himſelf worthy of the exiſtence he has received. He is ſenſible he can be reaſonably called to an account for his conduct, and he approves or condemns himſelf according to his different manner of acting.

From all theſe circumſtances it evidently appears, that man is not confined, like other animals, to a mere phyſical œconomy, but that he is included in a moral one, which raiſes him much higher, and is attended with greater conſequences. For what appearance or probability is there, that a ſoul which advances daily in wiſdom and virtue, ſhould tend to annihilation, and that God ſhould think proper to extinguiſh this light in its greateſt luſtre? Is it not more reaſonable to think, that the good or bad uſe of our faculties will be attended with future conſequences; that we ſhall be accountable to our Creator, and finally receive the juſt retribution we have merited? Since therefore this judgment of God does not diſplay itſelf ſufficiently in this world, it is natural to preſume, that the plan of the Divine Wiſdom, with regard to us, embraces a duration of a much greater extent.

XIII. Let us aſcend from man to God, and we ſhall be ſtill further convinced, that ſuch, in reality, is the plan he formed. Second proof, drawn from the perfections of God.

If God is willing (a point we have already proved) that man ſhould obſerve the rules of right reaſon, in proportion to his faculties and the circumſtances he is under; this muſt be a ſerious and poſitive will. It is the will of the Creator, of the Governor of the world, of the ſovereign Lord of all things. It is therefore a real command, which lays us under an obligation of obeying. It is moreover the will of a Being ſupremely powerful, wiſe, and good, who propoſing always, both with reſpect to himſelf and to his creatures, the moſt excellent ends, cannot fail to eſta-

bliſh the means, which in the order of reaſon, and purſuant to the nature and ſtate of things, are neceſſary for the execution of his deſign. No one can reaſonably conteſt theſe principles; but let us ſee what conſequences may be drawn from thence.

1. If it actually became the Divine Wiſdom to give laws to man, this ſame wiſdom requires theſe laws ſhould be accompanied with neceſſary motives to determine rational and free agents to conform thereto in all caſes. Otherwiſe we ſhould be obliged to ſay, either that God does not really and ſeriouſly deſire the obſervance of the laws he has enacted, or that he wants power or wiſdom to procure it.

2. If through an effect of his goodneſs, he has not thought proper to let men live at random, or to abandon them to the capriciouſneſs of their paſſions; if he has given them a light to direct them; this ſame goodneſs muſt, undoubtedly, induce him to annex a perfect and durable happineſs to the good uſe that every man makes of this light.

3. Reaſon informs us afterwards, that an all-powerful, all-wiſe, and all-bountiful Being is infinitely fond of order; that the ſame perfections make him deſire that this order ſhould reign among his intelligent and free creatures, and that it was for this very reaſon he ſubjected them to laws. The ſame reaſons that induced him to eſtabliſh a moral order, engage him likewiſe to procure their obſervance. It muſt be therefore his ſatisfaction and glory, to render all men ſenſible of the difference he makes between thoſe who diſturb, and thoſe who conform to order. He cannot be indifferent in this reſpect: on the contrary, he is determined, by the love he

has for himſelf and his perfections, to inveſt his commands with all the efficacy neceſſary to render his authority reſpected: This imports an eſtabliſhment of future rewards and puniſhments; either to keep man within rule, as much as poſſible, in the preſent ſtate, by the potent motives of hope and fear; or to give afterwards an execution worthy of his juſtice and wiſdom to his plan, by reducing every thing to the primitive order he has eſtabliſhed.

4. The ſame principle carries us yet further. For if God be infinitely fond of the order he has eſtabliſhed in the moral world, he cannot but approve of thoſe, who with a ſincere and conſtant attachment to this order, endeavour to pleaſe him by concurring to the accompliſhment of his views; and he cannot but diſapprove of ſuch as obſerve an oppoſite conduct*: for the former are, as it were, his friends, and the latter declare themſelves his enemies. But the approbation of the Deity imports his protection, benevolence, and love; whereas his diſapprobation cannot but be attended with quite contrary effects. If ſo, how can any one imagine, that God's friends and enemies will be confounded, and no difference made between them? It is not much more conſonant to reaſon to think, that the Divine Juſtice will manifeſt at length, ſome way or other, the extreme difference he places between virtue and vice, by rendering finally and perfectly happy thoſe, who by a ſubmiſſion to his will are become the objects of his benevolence; and, on the contrary, by making the wicked feel his juſt ſeverity and reſentment?

* See part ii. chap. x. § 7.

XIV. This is what our cleareſt notions of the perfections of the ſupreme Being induce us to judge concerning his views, and the plan he has formed. Were not virtue to meet ſurely and inevitably with a final recompence, and vice with a final puniſhment, and this in a general and complete manner, exactly proportioned to the degree of merit or demerit of each perſon; the plan of natural laws would never anſwer our expectation from a ſupreme Legiſlator, whoſe preſcience, wiſdom, power, and goodneſs, are without bounds. This would be leaving the laws diveſted of their principal force, and reducing them to the quality of ſimple counſels; it would be ſubverting, in fine, the fundamental part of the ſyſtem of intelligent creatures, namely, that of being induced to make a reaſonable uſe of their faculties, with a view and expectation of happineſs. In ſhort, the moral ſyſtem would fall into a ſtate of imperfection, which could be reconciled neither with the nature of man, nor with the ſtate of ſociety, nor with the moral perfections of the Deity. It is otherwiſe, when we acknowledge a future life. The moral ſyſtem is thereby ſupported, connected, and finiſhed, ſo as to leave nothing wanting to render it complete: It is then a plan really worthy of God, and uſeful to man. The ſupreme Being does all he ought to do with free and rational creatures, to induce them to behave as they ſhould; the laws of nature are thus eſtabliſhed on the moſt ſolid foundations; and nothing is wanting to bind man by ſuch motives as are propereſt to make an impreſſion.

Hence if this plan be without compariſon the moſt beautiful and the beſt; if it be likewiſe the moſt

moſt worthy of God, and the moſt connected with what we know of the nature, wants, and ſtate of man; how can any one doubt of its being that which the Divine Wiſdom has actually choſen?

The objection drawn from the preſent ſtate of things ſerves to prove the ſentiment it oppoſes.

XV. I acknowledge, indeed, that could we find in the preſent life a ſufficient ſanction of the laws of nature, in the meaſure and plentitude above mentioned, we ſhould have no right to preſs this argument; for nothing could oblige us to ſearch into futurity for an intire unravelling of the divine plan. But we have ſeen in the preceding chapter, that though by the nature of things, and even by the various eſtabliſhments of man, virtue has already its reward, and vice its puniſhment; yet this excellent and juſt order is accompliſhed only in part, and that we find a great number of exceptions to this rule in hiſtory, and the experience of human life. Hence ariſes a very puzzling objection againſt the authority of natural laws. But as ſoon as mention is made of another life, the difficulty diſappears; every thing is cleared up and ſet to right; the ſyſtem appears connected, finiſhed, and ſupported; the Divine Wiſdom is juſtified: we find all the neceſſary ſupplements and compenſations to redreſs the preſent irregularities; virtue acquires a firm and unſhaken prop, by furniſhing the virtuous man with a motive capable to ſupport him in the moſt dangerous difficulties, and to render him triumphant over the moſt delicate temptations.

Were this only a ſimple conjecture, it might be conſidered rather as a convenient than ſolid ſuppoſition. But we have ſeen that it is founded alſo

on the nature and excellence of the ſoul; on the inſtinct that inclines us to raiſe ourſelves above the preſent life; and on the nature of man conſidered on the moral ſide, as a creature accountable for his actions, and obliged to conform to a certain rule. When beſides all this we behold that the ſame opinion ſerves to ſupport, and perfectly crowns the whole ſyſtem of natural law, it muſt be allowed to be no leſs probable than' it is beautiful and engaging.

The belief of a future ſtate has been received by all nations.

XVI. Hence this ſame opinion has been received more or leſs at all times, and by all nations, according as reaſon has been more or leſs cultivated, or as people have inquired cloſer into the origin of things. It would be an eaſy matter to alledge divers hiſtorical proofs, and to produce alſo ſeveral beautiful paſſages from the ancient philoſophers, in order to ſhew that the reaſons which ſtrike us, made the like impreſſions on the wiſeſt of the Pagans. But we ſhall be ſatisfied with obſerving, that theſe teſtimonies, which have been collected by other writers, are not indifferent on this ſubject; becauſe this ſhews, either the veſtiges of a primitive tradition, or the voice of reaſon and nature, or both; which adds a conſiderable weight to our argument.

CHAP.

## CHAP. XIV.

*That the proofs we have alledged have ſuch a probability and fitneſs, as renders them ſufficient to fix our belief, and to determine our conduct.*

The proofs we have given of the ſanction of natural laws are ſufficient.

I. WE have ſeen how far our reaſon is capable of conducting us with regard to the important queſtion of the immortality of the ſoul, and a future ſtate of rewards and puniſhments. Each of the proofs we have alledged, has without doubt its particular force; but joining to the aſſiſtance of one another, and acquiring a greater ſtrength by their union, they are certainly capable of making an impreſſion on every attentive and unprejudiced mind, and ought to appear ſufficient to eſtabliſh the authority and ſanction of natural law in as full an extent as we deſire.

Objection. Theſe proofs contain no more than a fit or ſuitable reaſon, General anſwer.

II. If any one ſhould ſay, that all our reaſonings on this ſubject are only probability and conjecture, and properly reducible to a plauſible reaſon or fitneſs, which leaves the thing ſtill at a great diſtance from demonſtration; I ſhall agree, if he pleaſes, that we have not here a complete evidence; yet the probability, methinks, is ſo very ſtrong, and the fitneſs ſo great and ſo well eſtabliſhed, that this is ſufficient to make it prevail over the contrary opinion, and conſequently to determine us.

For

For we ſhould be ſtrangely embarraſſed, if in every queſtion that ariſes, we ſhould refuſe to be determined by any thing but a demonſtrative argument. Moſt commonly we are obliged to be ſatisfied with an aſſemblage of probabilities, which, in a conjunct conſideration, very ſeldom deceive us, and ought to ſupply the place of evidence in ſubjects unſuſceptible of demonſtration. It is thus that in natural philoſophy, in phyſic, criticiſm, hiſtory, politics, commerce, and generally in all the affairs of life, a prudent man is determined by a concurrence of reaſons, which, every thing conſidered, he judges ſuperior to the oppoſite arguments.

What is meant by a ſuitable reaſon.

III. In order to render the force of this kind of proof more obvious, it will not be amiſs to explain here at firſt what we mean by a *plauſible reaſon* or *fitneſs*; to inquire afterwards into the general principle on which this ſort of reaſoning is founded; and to ſee in particular what conſtitutes its force when applied to the law of nature. This will be the right way to know the juſt value of our arguments, and what weight they ought to have in our determinations.

*A plauſible reaſon or fitneſs* is that which is drawn from the neceſſity of admitting a point as certain, for the perfection of a ſyſtem in other reſpects ſolid, uſeful, and well connected, but which would be defective without this point; when there is no reaſon to ſuppoſe that it has any eſſential defect *. For example: upon beholding a great and magnificent palace, we remark an admirable ſymmetry and propor-

* See chap. viii. § 2.

tion;

tion; where all the rules of art, which form the ſolidity, convenience, and beauty of a building, are ſtrictly obſerved. In ſhort, all that we ſee of the building denotes an able architect. May it not therefore be reaſonably ſuppoſed, that the foundation which we do not ſee is equally ſolid and proportioned to the great maſs it bears? Can it be imagined that the architect's ability and knowledge ſhould have forſaken him in ſo important a point? In order to form ſuch a ſuppoſition, we ſhould have certain proofs of this deficiency, or have ſeen that in fact the foundation is imperfect; otherwiſe we could not preſume ſo improbable a thing. Who is it, that on a mere metaphyſical poſſibility of the architect's having neglected to lay the foundation, would venture to wager that the thing is really ſo?

General foundation of this manner of reaſoning,

IV. Such is the nature of fitneſs. The general foundation of this manner of reaſoning is, that we muſt not conſider only what is poſſible, but what is probable; and that a truth of itſelf very little known, acquires a probability by its natural connection with other truths more obvious. Thus natural philoſophers do not queſtion but they have diſcovered the truth, when an hypotheſis happily explains all the phenomena; and an event very little known in hiſtory, appears no longer doubtful, when we ſee it ſerves for a key and baſis to many other indubitable events. It is on this principle in great meaſure that moral certainty is founded *, which is ſo much uſed

* See M. Boullier's philoſophical eſſay on the ſouls of brutes, &c. ſecond edition; to which has been joined a treatiſe of the true principles that ſerve as a foundation to moral certainty. *Amſt.* 1737.

in

in moſt ſciences, as well as in the conduct of life, and in things of the greateſt importance to individuals, families, and to the whole ſociety.

This kind of fitneſs is very ſtrong in reſpect to natural law.

V. But if this manner of judging and reaſoning takes place ſo frequently in human affairs, and is in general founded on ſo ſolid a principle; it is ſtill much ſurer when we are to reaſon on the works of God, to diſcover his plan, and to judge of his views and deſigns. For the whole univerſe, with the ſeveral ſyſtems that compoſe it, and particularly the ſyſtem of man and ſociety, are the work of a ſupreme underſtanding. Nothing has been done by chance; nothing depends on a blind, capricious, or impotent cauſe; every thing has been calculated and meaſured with a profound wiſdom. Here therefore, more than any where elſe, we have a right to judge, that ſo powerful and ſo wiſe an author, has omitted nothing neceſſary for the perfection of his plan; and that conſiſtent with himſelf he has fitted it with all the eſſential parts, for the deſign he propoſed. If we ought to preſume reaſonably ſuch a care in an able architect, who is nothing more than a man ſubject to error; how much more ought we to preſume it in a being of infinite wiſdom?

This fitneſs has different degrees. Principles to judge of it.

VI. What we have been now ſaying, ſhews that this fitneſs is not always of the ſame weight, but may be more or leſs ſtrong, in proportion to the greater or leſſer neceſſity on which it is eſtabliſhed. And to lay down rules on this ſubject, we may ſay in general, 1. That the more we know the views and deſign of the author; 2. The more we

are

are assured of his wisdom and power; 3. The more this power and wisdom are perfect; 4. The more considerable are the inconveniences that result from the opposite system; the more they border upon the absurd; and the more pressing we find the consequences drawn from this sort of considerations. For then we have nothing to set in opposition to them by way of counterbalance; and consequently it is on that side we are determined by right reason.

Application of these principles to our subject.

VII. These principles are of themselves applicable to our subject, and this in so just and complete a manner, that the reason drawn from probability or fitness cannot be carried any farther. After what has been said in the preceding chapters, it would be entering into useless repetitions, to attempt to prove here all the particulars: the thing sufficiently proves itself. Let us be satisfied with observing, that the fitness in favour of the sanction of natural laws, is so much the stronger and more pressing, as the contrary opinion throws into the system of humanity an obscurity and confusion, which borders very much upon the absurd, if it does not come quite up to it. The plan of the Divine Wisdom becomes in respect to us an insoluble engima; we are no longer able to account for any thing; and we cannot tell why so necessary a thing should be wanting in a plan so beautiful in other respects, so useful, and so perfectly connected.

Comparison of the two opposite systems.

VIII. Let us draw a comparison between the two systems, to see which is most conformable to order, most suitable to the nature and state of man, and, in short, most reasonable and worthy of God.

Suppose,

Suppoſe, on one ſide, that the Creator propoſed the perfection and felicity of his creatures, and in particular the good of man and ſociety. That for this purpoſe, having inveſted man with underſtanding and liberty, and rendered him capable of knowing his end, of diſcovering and following the road that can alone conduct him to it, he lays him under a ſtrict obligation of walking conſtantly in this road, and of ever following the light of reaſon, which ought always to direct his ſteps. That in order to guide him the better, he has given him all the principles neceſſary to ſerve him as a rule. That this direction, and theſe principles, coming from a powerful, wiſe, and good ſuperior, have all the characteriſtics of a real law. That this law carries already along with it, even in this life, its reward and puniſhment; but that this firſt ſanction being inſufficient, God, in order to give to a plan ſo worthy of his wiſdom and goodneſs, its full perfection, and to furniſh mankind in all poſſible caſes with neceſſary motives and helps, has moreover eſtabliſhed a proper ſanction in reſpect to natural law, which will be manifeſted in a future life: and that attentive to the conduct of man, he propoſes to make him give an account of his actions, to recompence virtue, and to puniſh vice, by a retribution exactly proportioned to the merit or demerit of each perſon.

Let us ſet now in oppoſition to this firſt ſyſtem the other, which ſuppoſes that every thing is limited, in reſpect to man, to the preſent life, and that he has nothing to hope or fear beyond this term: that God, after having created man and inſtituted ſociety, concerns himſelf no more about them: that after

after giving us a power of diſcerning good and evil by the help of reaſon, he takes no manner of notice of the uſe we make thereof, but leaves us in ſuch a manner to ourſelves, that we are abſolutely at liberty to do as we pleaſe: that we ſhall have no account to give to our Creator, and that notwithſtanding the unequal and irregular diſtribution of the goods and evils of this life, notwithſtanding the diſorders cauſed by the malice or injuſtice of mankind, we have no redreſs or compenſation ever to expect from God.

The ſyſtem of the ſanction of natural laws is far preferable to the oppoſite ſyſtem.

IX. Can any one ſay that this laſt ſyſtem is comparable to the firſt? Does it ſet the divine perfections in ſo great a light? Is it ſo worthy of the divine wiſdom, bounty, and juſtice? Is it ſo proper to ſtem the torrent of vice and to ſupport virtue, in delicate and dangerous conjunctures? Does it render the ſtructure of ſociety as ſolid, and inveſt the laws of nature with ſuch an authority as the glory of the ſupreme Legiſlator and the good of humanity requires? Were we to chuſe between two ſocieties, one of which admitted the former ſyſtem, while the other acknowledge only the latter, is there a prudent man but would highly prefer to live in the firſt of thoſe ſocieties?

There is, certainly, no compariſon between thoſe two ſyſtems, in reſpect to beauty and fitneſs: the firſt is a work of the moſt perfect reaſon; the ſecond is defective, and provides no manner of remedy againſt a great many diſorders. Now even this alone points out ſufficiently on which ſide the truth lies; becauſe the buſineſs is to judge and reaſon of the deſigns and works of the Deity, who does every thing with infinite wiſdom.

X. Let

Objection. Answer.

X. Let no one ſay, that limited as we are, it is temerity to decide after this manner; and that we have too imperfect ideas of the divine nature and perfections, to be able to judge of his plan and deſigns with any certainty. This reflection, which is in ſome meaſure true, and in ſome caſes juſt, proves too much, if applied to our ſubject, and conſequently has no weight. Let us but reflect a little, and we ſhall find that this thought leads us inſenſibly to a kind of pyrrhoniſm, which would be the ſubverſion of all order and ſocial œconomy. For in fine there is no medium; we muſt chuſe one of the two ſyſtems above explained. To reject the firſt, is admitting the ſecond with all its inconveniences. This remark is of ſome importance, and alone is almoſt ſufficient to ſhew us the force of fitneſs in this caſe; becauſe not to acknowledge the ſolidity of this reaſon, is to lay one's ſelf under a neceſſity of receiving a defective ſyſtem; a ſyſtem loaded with inconveniences, and whoſe conſequences are very far from being reaſonable.

Of the influence which thoſe proofs ought to have over our conduct. We ſhould act in this world on the foundation of the belief of a future ſtate.

XI. Such are the nature and force of the fitneſs, on which the proofs of the ſanction of natural laws are eſtabliſhed. All that remains now, is to ſee what impreſſion theſe proofs united, ought to make on our minds, and what influence they ſhould have over our conduct. This is the capital point in which the whole ought to terminate.

1. In the firſt place I obſerve, that though all that can be ſaid in favour of the ſanction of natural laws, were ſtill to leave the queſtion undecided; yet it would

would be reaſonable even in this very uncertainty to act, as if it had been determined in the affirmative. For it is evidently the ſafeſt ſide, namely, that in which there is leſs at all events to loſe, and more to gain. Let us ſtate the thing as dubious. If there be a future ſtate, it is not only an error not to believe it, but likewiſe a dangerous irregularity to act as if there were no ſuch thing: an error of this kind is attended with pernicious conſequences; whereas if there is no ſuch thing, the miſtake in believing it, produces in general none but good effects; it is not ſubject to any inconveniences hereafter, nor does it, generally ſpeaking, expoſe us to any great difficulties for the time preſent. Be it therefore as it may, and let the caſe be ever ſo unfavourable to natural laws, a prudent man will never heſitate which ſide he is to embrace, whether the obſervance, or the violation of thoſe laws: virtue will certainly have the preference of vice.

2. But if this ſide of the queſtion is the moſt prudent and eligible, even under a ſuppoſition of doubt and uncertainty, how much more will it be ſo, if we acknowledge, as we cannot avoid, that this opinion is at leaſt more probable than the other? A firſt degree of veriſimilitude, or a ſimple though ſlight probability, becomes a reaſonable motive of determination, in reſpect to every man that calculates and reflects. And if it be prudent to conduct ourſelves by this principle in the ordinary affairs of life, does prudence permit us to deviate from this very road in the moſt important affairs, ſuch as eſſentially intereſt our felicity?

3. But, in fine, if proceeding ſtill further, and reducing the thing to its true point, it is agreed that we have actually, if not a ſtrict demonſtration of a future life, at leaſt a probability founded on many reaſonable preſumptions, and ſo great a fitneſs as borders very near upon certainty; it is ſtill more evident, that in the preſent ſtate of things, we ought to act on this footing, and are not reaſonably allowed to form any other rule of conduct *.

It is a neceſſary conſequence of our nature and ſtate.

XII. Nothing, indeed, is more worthy of a rational being, than to ſeek for evidence on every ſubject, and to be determined only by clear and certain principles. But ſince all ſubjects are not ſuſceptible thereof, and yet we are obliged to determine; what would become of us, if we were always to wait for a perfect demonſtration? In failure of the higheſt degree of certainty, we muſt take up with the next to it; and a great probability becomes a ſufficient reaſon of acting, when there is none of equal weight to oppoſe it. If this ſide of the queſtion be not in itſelf evidently certain, it is at leaſt an evident and certain rule, that in the preſent ſtate of things, it ought to have the preference.

This is a neceſſary conſequence of our nature and condition. As we have only a limited knowledge, and yet are under a neceſſity of determining and acting; were it requiſite for this purpoſe to have a perfect certainty, and were we to refuſe to accept of probability as a principle of determi-

* See part. i. chap. vi. § 6.

nation;

nation; we ſhould be either obliged to determine in favour of the leaſt probable ſide, and contrary to veriſimilitude (which no body, methinks, will attempt to maintain) or we ſhould be forced to ſpend our days in dubiouſneſs and uncertainty, to fluctuate continually in a ſtate of irreſolution, and to remain ever in ſuſpence, without acting, without reſolving upon any thing, or without having any fixt rule of conduct; which would be a total ſubverſion of the ſyſtem of humanity.

XIII. But if it be reaſonable in general to admit of fitneſs and probability as the rule of conduct, for want of evidence; this rule becomes ſtill more neceſſary and juſt, in particular caſes, in which, as hath been already obſerved, a perſon runs no riſk in following it. When there is nothing to loſe, if we are miſtaken; and a great deal to win, if we are not; what can we deſire more for a rational motive of acting? Eſpecially when the oppoſite ſide expoſes us to very great danger, in caſe of error; and affords us no manner of advantage, ſuppoſing we are in the right. Under ſuch circumſtances there is no room for heſitating; reaſon obliges us to embrace the ſafeſt ſide; and this obligation is ſo much the ſtronger, as it ariſes from a concurrence of motives of the greateſt weight and ſolidity.

Reaſon lays us under an obligation of ſo doing.

In ſhort, if it be reaſonable to embrace this ſide, even in caſe of an intire uncertainty, it is ſtill more ſo when there is ſome probability in its favour; it becomes neceſſary if theſe probabilities are co-

gent and numerous; and, in fine, the neceſſity ſtill increaſes, if, at all events, this is the ſafeſt and moſt advantageous party. What can any one deſire more, in order to produce a real obligation *, according to the principles we have eſtabliſhed in regard to the internal obligation impoſed by reaſon.

It is a duty that God himſelf impoſes on us.

XIV. Again. This internal and primitive obligation is confirmed by the Divine Will itſelf, and conſequently rendered as ſtrong as poſſible. In fact, this manner of judging and acting being, as we have ſeen, the reſult of our conſtitution, ſuch as the Creator has formed it; this alone is a certain proof, that it is the will of God we ſhould be directed by thoſe principles, and conſider it as a point of duty. For whatever, as we have already obſerved †, is inherent in the nature of man, whatever is a conſequence of his original conſtitution and ſtate, acquaints us clearly and diſtinctly with the will of the Creator, with the uſe he expects we ſhould make of our faculties, and the obligations to which he has thought proper to ſubject us. This is a point that merits great attention. For if we may affirm, without fear of miſtake, that the Deity is actually willing that man ſhould conduct himſelf in this life on the foundation of the belief of a future ſtate, and as having every thing to hope or to fear on his ſide, according as he has acted juſtly or unjuſtly; does there not ariſe from thence a more than probable proof of the reality of this ſtate, and

* See part i. chap. vi. § 9, and 13.

† See part ii. chap. iv. § 5.

of the certainty of rewards and punishments? Otherwise we should be obliged to say, that God himself deceives us, because this error was necessary for the execution of his designs, as a principle essential to the plan he has formed in respect to humanity. But to speak after this manner of the most perfect Being, of a Being, whose power, wisdom, and goodness, are infinite, would be using a language equally absurd and indecent. For this very reason, that as the abovementioned article of belief is necessary to mankind, and enters into the views of the Creator, it cannot be false. Whatever the Deity sets before us as a duty, or as a reasonable principle of conduct, must be certainly true.

XV. Thus every thing concurs to establish the authority of natural laws. 1. The approbation they receive from reason. 2. The express command of God. 3. The real advantages which their observance procures us in this world; and, in fine, the great hopes and just fears we ought to have in respect to futurity, according as we have observed or despised those laws. Thus it is that God binds us to the practice of virtue by such strong and so numerous connexions, that every man who consults and listens to reason, finds himself under an indispensible obligation of rendering them the unvariable rule of his conduct. Conclusion,

XVI. Some perhaps will object, that we have been too diffusive in respect to the sanction of natural laws. True it is, that most of those who have written concerning the law of nature, are more concise That which is already probable by reason only, is set in full evidence by revelation.

ciſe on this article, and Puffendorf himſelf does not ſay much about it*. This author, without abſolutely excluding the conſideration of a future life from this ſcience, ſeems nevertheleſs to confine the law of nature within the bounds of the preſent life, as tending only to render us ſociable †. And yet he acknowledges that man is naturally deſirous of immortality, and that this has induced heathens to believe the ſoul immortal; that this belief is likewiſe authoriſed by an ancient tradition concerning the Goddeſs of revenge; to which he adds, that in fact it is very probable God will puniſh the violation of the laws of nature; but that there is ſtill a great obſcurity in this reſpect, and nothing but revelation can put the thing out of doubt ‡.

But were it even true, that reaſon affords us nothing but probabilities in regard to this queſtion, yet we muſt not exclude from the law of nature all conſiderations of a future ſtate; eſpecially if theſe probabilities are ſo very great, as to border upon certainty. The above article enters neceſſarily into

* The reader may ſee in a ſmall treatiſe, intitled, *Judgment of an anonymous*, &c. and inſerted in the 5th edition of *the Duties of man and a citizen*, the remarks that Mr. Leibnitz, author of that treatiſe, makes againſt Puffendorf upon this ſcore. Barbeyrac, who has joined his own remarks to Mr. Leibnitz's work, juſtifies Puffendorf pretty well. And yet an attentive obſerver will find there is ſtill ſomething wanting to the entire juſtification of this author's ſyſtem.

† See Puffendorf's Preface on the Duties of Man and a Citizen, § 6, 7.

‡ See the Law of Nature and Nations, book ii. chap. iii. § 21.

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the ſyſtem of this ſcience, and forms a part thereof ſo much the more eſſential, that were it not for this, the authority of natural law would be weakened, as we have already demonſtrated; and it would be difficult (to ſay nothing more) to eſtabliſh on any ſolid grounds ſeveral important duties, which oblige us to ſacrifice our greateſt advantages to the good of ſociety, or to the ſupport of equity and juſtice. Neceſſary therefore it was, to examine with ſome care, how far our natural light may lead us in reſpect to this queſtion, and to ſhew the force of the proofs that our reaſon affords us, and the influence thoſe proofs ought to have over our conduct.

True it is, as we have already obſerved, that the beſt way to know the will of God in this reſpect, would be an expreſs declaration on his part. But if reaſoning, as mere philoſophers, we have not been able to make uſe of ſo deciſive a proof, nothing can hinder us, as chriſtian philoſophers, to avail ourſelves of the advantage we have from revelation, in order to ſtrengthen our conjectures. Nothing, indeed, can be a better argument that we have reaſoned and conjectured right, than the poſitive declaration of the Deity on this important point. For ſince it appears in fact that God is willing to recompenſe virtue, and to puniſh vice in another life, it is no longer poſſible to doubt of what we have advanced, namely, that this is extremely conformable to his wiſdom, goodneſs, and juſtice. The proofs we have drawn from the nature of man, from God's deſigns in his favour, from the wiſdom and equity with which he governs the world, and from the preſent ſtate of things, are not a work of the imagina-

tion, or an illuſion of ſelf-love; no, they are reflections dictated by right reaſon: and when revelation comes up to their aſſiſtance, it ſets then in full evidence what already had been rendered probable by the ſole light of nature.

But the reflection we have here made, regards not only the ſanction of natural laws, it may be equally extended to the other parts of this work. It is to us a great pleaſure to ſee that the principles we have laid down, are exactly thoſe that the chriſtian religion adopts for its baſis, and on which the whole ſtructure of religion and morality is raiſed. If on one ſide this remark ſerves to confirm us in theſe principles, by aſſuring us that we have hit upon the true ſyſtem of nature; on the other, it ought to diſpoſe us to have an infinite eſteem for a revelation which perfectly confirms the law of nature, and converts moral philoſophy into a religious and popular doctrine; a doctrine founded on facts, and in which the authority and promiſes of the Deity manifeſtly intervene in the fitteſt manner to make an impreſſion upon man. This happy agreement between natural and revealed light, is equally honourable to both.

*FINIS.*

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